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**FLIGHT PLIGHT: AN EXAMINATION OF
CONTEMPORARY HUMANITARIAN IMMIGRATION
FROM HONDURAS, CUBA, AND SYRIA TO THE
UNITED STATES WITH CONSIDERATIONS FOR
NATIONAL SECURITY**

by

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March 2016

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TO THE UNITED STATES WITH CONSIDERATIONS FOR NATIONAL
SECURITY**

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ABSTRACT

This thesis examines contemporary U.S. immigration for humanitarian populations from Honduras, Cuba, and Syria. Humanitarian immigration refers to refugees, asylum seekers, and those who are forcibly displaced from their homelands. The study explores how the United States can balance its identity as a nation of immigrants with its increasing security concerns within forced migrant populations. The research describes various philosophies of and motives for migration and the United States' role as an international destination for refugees. The study also provides a comprehensive review of all U.S. humanitarian immigration programs available to forced migrants from Honduras, Cuba, and Syria. These unique reviews, or case studies, are introduced with descriptions of each country's social, political, and historical context for migration and feature fictional scenarios in which immigrant families interact directly with country conditions and the U.S. humanitarian immigration programs available to them. Finally, the thesis reviews national security concerns presented by humanitarian immigration programs and explains how national priorities and legislative remedies can temper public fear.

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TABLE OF CONTENTS

I.	INTRODUCTION.....	1
A.	RESEARCH QUESTION	2
B.	LITERATURE REVIEW	2
1.	Philosophy of Migration	3
2.	Refugees, Asylum seekers, and Displaced Persons	10
3.	The American Dream	14
C.	METHODOLOGY FOR RESEARCH.....	17
D.	DISCLAIMER.....	21
II.	CASE STUDY: HONDURAS	23
A.	COUNTRY CONTEXT.....	23
B.	FICTIONAL SCENARIO.....	26
C.	IMMIGRATION OPTIONS.....	30
1.	Temporary Protected Status.....	31
2.	Options for Children.....	36
3.	Special Immigrant Juveniles.....	38
4.	T and U Visas	39
5.	Deferred Action and Humanitarian Parole	40
6.	Asylum Programs.....	45
D.	SECURITY CONCERNS	47
E.	CONCLUSION	52
III.	CASE STUDY: CUBA.....	55
A.	COUNTRY CONTEXT.....	55
B.	FICTIONAL SCENARIO.....	60
C.	IMMIGRATION OPTIONS.....	63
1.	Diversity Lottery Visa Program, <i>El Bombo</i>.....	63
2.	Cuban Medical Professional Parole Program.....	65
3.	Cuban Adjustment Act.....	68
4.	Cuban Family Reunification Parole Program	70
D.	SECURITY CONCERNS	72
E.	CONCLUSION	74
IV.	CASE STUDY: SYRIA.....	75
A.	COUNTRY CONTEXT.....	75
B.	FICTIONAL SCENARIO	79
C.	REFUGEE STATISTICS.....	80

D.	IMMIGRATION OPTIONS.....	83
1.	U.S. Refugee Program	83
2.	Temporary Protected Status.....	85
E.	SECURITY CONCERNS	91
F.	CONCLUSION	94
V.	CONSIDERATIONS FOR NATIONAL SECURITY	97
A.	LEGAL IMMIGRATION SYSTEM	97
B.	UNLAWFUL ENTRIES, LAWFUL STATUS.....	103
C.	UNLAWFUL ENTRIES, UNLAWFULLY PRESENT	104
D.	IN HINDSIGHT	105
VI.	RECOMMENDATIONS.....	109
A.	IMMIGRATION AND NATIONAL IDENTITY	109
B.	LEGISLATION.....	112
C.	IDEAS FOR FUTURE RESEARCH	116
D.	FINAL THOUGHTS	117
	LIST OF REFERENCES	119
	INITIAL DISTRIBUTION LIST	139

LIST OF FIGURES

Figure 1.	Border-Crossing Dangers Awareness Ad in Spanish	37
Figure 2.	Political Cartoon Questioning Plan to Address Central American Minors Arriving at the Southern Border.....	53
Figure 3.	Cuban Raft Intercepted at Sea.....	56
Figure 4.	Map of Cuba	60
Figure 5.	Syrian Refugee, 3-Year-Old Aylan Kurdi, Deceased on a Turkish Beach.....	77
Figure 6.	Syrian Refugee in Marj, Lebanon.....	80
Figure 7.	Syrian Refugee Map	81
Figure 8.	Assad Regime Rulers' Photos Displayed atop Tishreen University's Main Building in Latakia, Syria.....	84
Figure 9.	Map of Syria Conflict	85
Figure 10.	Where U.S. States Stand on Syrian Refugees.....	89
Figure 11.	ISIS Foreign Fighters	92
Figure 12.	Department of State Syrian Refugee Ad.....	95

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LIST OF TABLES

Table 1.	Motivations for Latin American Migration to the United States by Gender.....	7
Table 2.	Murder Rates in Honduras	48

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LIST OF ACRONYMS AND ABBREVIATIONS

DHS	Department of Homeland Security
DNIC	Departamento Nacional de Investigaciones Criminales
DOS	Department of State
GNI	Gross National Income
ISIS	Islamic State of Iraq and Syria
IUSSP	International Union for the Scientific Study of Population
NACARA	Nicaraguan Adjustment and Central American Relief Act
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
USCIS	United States Citizenship and Immigration Services

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EXECUTIVE SUMMARY

Immigration has always been a major component of the United States' national strategy. Humanitarian immigration refers to programs specifically designed to assist refugees, asylum seekers and other populations of forced migrants. The United States has historically taken pride in the values represented by its humanitarian immigration programs. However, the programs that address humanitarian immigrants have been under increased public scrutiny as a potential source of security concerns. Immigration law ensures that those who support terrorism, commit violent crimes and/or otherwise threaten the peace and order of the United States are not eligible for lawful entry. This study seeks to determine how the nation can maintain a national identity that supports humanitarian immigration while simultaneously safeguarding itself from those who seek to do harm.

The research initially describes different philosophies behind mass migration and why the United States is a desired international destination for immigrants. There is an overview of current U.S. humanitarian immigration programs in use for three specific countries: Honduras, Cuba and Syria. Some programs are unique to specific countries of origin, while other programs are available to all foreign nationals. Each case study begins with a description of the country's social, political and historical context and the reasons that their displaced populations are compelled to leave. Information describing pertinent U.S. humanitarian immigration programs is presented using fictional scenarios that feature immigrant families who interact with the existing country conditions and immigration programs available to them. Following the three case studies, there is a detailed explanation of the background check and screening process used in the U.S. Refugee Program. The discussion compares the legal immigration process with processes used by those who enter the country with minimal or delayed government screening and those who enter the country with no government screening. Finally, there is a review of threats posed by modern terrorist groups, such as ISIS, and the role that the U.S. humanitarian immigration system plays in screening potential terrorists.

The resulting recommendations provide several potential legislative solutions that ensure the immediate safeguarding of the U.S. pro-immigration national strategy:

(1) Expand the U.S. refugee definition.

Include those who require refuge under a long-term Temporary Protected Status due to urgent environmental catastrophes and/or general violence.

(2) Keep Temporary Protected Status temporary.

Ensure that the Temporary Protected Status category is not used to address displaced persons for more than five years. Temporary Protected Status is not a long-term solution.

(3) Improve local access to humanitarian immigration programs for families in Central America.

Central American families are most often forced to pursue U.S. humanitarian immigration programs by applying at the southern land border of the United States. In order to arrive at this physical destination, these displaced populations must use unlawful and treacherous human smuggling networks to cross through Mexico into the United States.

(4) Discontinue immigration programs that promote Cuban exceptionalism.

Cuban refugees' needs can be considered within the existing humanitarian immigration structures. As the United States seeks to mend its diplomatic relationship with Cuba, Cuban nationals must be held to the same international standards as all other potential immigrants coming into the United States.

(5) Enhance immigration enforcement for those in violation of U.S. immigration laws.

The greatest migratory threat to national security is those who circumvent or commit fraud against the existing immigration laws and processes. The total number of people deported from the country in 2015 (235,413) is the lowest number deported in

over eight years due to decreased immigration enforcement priorities.¹ Immigration courts and enforcement officers should receive adequate resources and directives to ensure the expeditious handling of those who stand in violation of the law.

(6) Establish greater control over the U.S. Asylum Program.

The U.S. Asylum Program lacks the same control featured throughout the U.S. Refugee Program. Those who request asylum in the United States can enter the country legally or illegally and are often forced to wait in a “limbo” immigration status, sometimes for years, during the asylum hearing process.

This research represents a comprehensive review of the current U.S. humanitarian immigration system in place for three countries with large displaced populations and significant security risk. The *2014 Department of Homeland Security Quadrennial Homeland Security Review* states, “At the center of any good immigration system must be an administrative structure able to rapidly respond to changes in demand while safeguarding security.”² The implementation of the recommended procedures would help to create a dynamic immigration system able to address global humanitarian migratory needs in a way that promotes the pro-immigration ideals and the safety of the country.

¹ “FY 2015 ICE Immigration Removals,” Immigration and Customs Enforcement, accessed January 6, 2016, <https://www.ice.gov/removal-statistics>.

² Department of Homeland Security, *2014 Quadrennial Homeland Security Review* (Washington, DC: Department of Homeland Security, 2014), 70.

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I. INTRODUCTION

Humanitarian immigration describes the system within the federal government that is designed to assist international populations with the greatest migratory need: forced migrants, refugees and asylum seekers. It is a cornerstone of the American identity, as the poet Emma Lazarus captured in her famous verse now engraved on the Statue of Liberty:

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!¹

The United States takes tremendous pride in the values represented by its humanitarian immigration programs. Although these programs follow specific U.S. laws to determine which applicants qualify, the laws have been interpreted over the years to become an “ad-hoc” list of country-specific programs, rules, and exceptions. Humanitarian immigration programs must adequately address the vulnerabilities of international displaced refugees in a way that protects the security of the United States.

This research explores the complexity of U.S. humanitarian immigration policy through the direct lens of the affected populations in Honduras, Cuba, and Syria. Three composite fictional scenarios featuring immigrants from these areas have been created based on the forced migrants’ collective human experience as derived from news stories, academic research, and legal cases. The goal is to provide recommendations for improving humanitarian immigration programs in the United States based on a study of the users interacting with the system.

When one considers human systems, such as a justice system or an immigration system, one must take into account that these are relatively recent societal systems. Human interaction does not exist without some degree of empathy. According to

¹ Emma Lazarus, “The New Colossus,” lines 10–14.

professor and author Ken Binmore, empathy is a necessary ingredient to establish social contracts through the evolution of fairness; “Without the ability to empathize, we wouldn’t be able to operate decentralized social contracts that rely on our coordinating on an equilibrium without subordinating ourselves to the direction of a dominant individual.”² Empathy as a basic human emotion should be highlighted as a way to help the public understand the role of immigration law and the motives of immigrants beyond information offered in news reports, statistics, political debates and immigration policies. Empathy is not about “feeling sorry” for another person. Empathy is about attempting to engage in a social contract. To understand this relationship is to understand the mindset of a fellow human being by attempting to see the world through his or her eyes, using his or her logic. Introducing empathy into the U.S. humanitarian immigration system can help the American public and policymakers develop appropriate initiatives that balance international humanitarian need with growing security concerns.

A. RESEARCH QUESTION

How can increased understanding of humanitarian immigration populations improve U.S. immigration programs and protect the United States from terrorist and/or criminal threats within those same populations?

This research explores applicable U.S. humanitarian immigration programs available to forced migrants in Honduras, Cuba and Syria, including (but not limited to) the refugee and asylum programs. The research is guided by three case studies that feature fictional scenarios to show families of immigrants from each country interacting directly with local conditions that influence their decisions to migrate and the U.S. immigration programs available to them.

B. LITERATURE REVIEW

An extensive analysis of existing literature was conducted to prepare for the research and methodology used in this study. The literature review first covers different philosophies behind immigration, the sociological and economic considerations of

² Ken Binmore, *Natural Justice* (New York: Oxford University Press, 2005), 115.

migration, the role of sending nations, the unique needs of humanitarian migrants, and the lure of the United States as a destination for immigrants. The literature review then turns to support the narrative methodology used in this study. Narratives are powerful tools able to convey complex information. There exists substantial research in education and human development studies to suggest that narratives are natural learning tools. The three countries' background research and humanitarian immigration programs are then introduced through the narrative case studies.

1. Philosophy of Migration

Immigration theories traverse a wide philosophical spectrum. The major debate concerns the inherent conflict among liberal ideals, democratic principles, and the role of government. The liberal idea of “equality for all” is a founding principle for modern democracies that springs from social contract theory dating back to John Locke and Jean-Jacques Rousseau.³ This idea becomes complicated when states create borders and requirements for citizenship. Pure liberal ideals provide the framework for open border theorists. Authors such as Philip Cole and Javier Hidalgo state that border controls are inherently contrary to the idea of “freedom for all.”⁴ Arash Abizadeh, however, believes that border controls are justified by the democratic principle of self-determination. But Abizadeh also argues that democracy requires popular sovereignty to ensure that decisions are made by a consensus of the affected population(s). Because a state’s members and non-members are both subjected to border controls, democratic principles suggest that both parties should have a say in border policy decisions.⁵ U.S. immigration policy is enacted through legislation approved by a representative of Congress, who is elected by U.S. citizen voters. Immigration policy decisions in the United States consider

³ John Locke, *Two Treatises of Government: With a Supplement, Patriarcha, by Robert Filmer* (New York: Simon and Schuster, 1947).

⁴ Philip Cole, *Philosophies of Exclusion: Liberal Political Theory and Immigration* (Edinburgh: Edinburgh University Press, 2000); Javier S. Hidalgo, “Freedom, Immigration, and Adequate Options,” *Critical Review of International Social and Political Philosophy* 17, no. 2 (2012): 1–23.

⁵ A. Abizadeh, “Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders,” *Political Theory* 36 (2008): 36–65, http://www.cridaq.uqam.ca/IMG/pdf/Abizadeh_Democratic_theory.pdf.

neither the opinions of the sending countries (on the other side of the international border) nor those of the migrants potentially affected by the immigration policies.

Michael Blake is a scholar who takes a slightly different view—one that also is more in line with the immigration policy actions taken by U.S. lawmakers. Blake argues that each nation has the limited right to exclude some immigrants because a society does not have to accept undue responsibility or obligation for others.⁶ The United States routinely excludes immigrants based on laws that stipulate when the United States will take on new obligations to a foreign national. Alternately, the concept of non-domination is introduced by philosophy scholar Marit Hovdal-Moan. The non-domination theory suggests that non-resident immigrants have some rights conveyed upon entry into the country and that individual rights and inclusion in the democracy should gradually increase over time to avoid social dominance by certain sectors of society.⁷ The United States does convey a limited degree of rights to every individual who enters the country. The process for increasing a non-resident immigrant's rights in the United States to avoid social dominance varies with the type of visa, employment opportunities, country of nationality and programs available to the particular immigrant, as is demonstrated throughout this research.

Other scholars expand on the philosophical ideals of a country's moral responsibility to its immigrant populations. Crispino E.G. Akakpo and Patti T. Lenard suggest that trying to superimpose any sweeping moral and philosophical theories excludes "non-standard" reasons for immigration and that the very decision to immigrate is not a single, fixed decision but rather something that grows and changes over time.⁸ Demographer Michael S. Teitelbaum wrote several essays about our ability to understand and possibly predict human international migration through academic theories or

⁶ Michael Blake, "The Right to Exclude," *Critical Review of International Social and Political Philosophy* 17, no. 5 (2014): 521–537.

⁷ Marit Hovdal-Moan, "Unequal Residence Statuses and the Ideal of Non-Domination," *Critical Review of International Social and Political Philosophy* 17, no. 1 (2013): 1–20.

⁸ Crispino E.G. Akakpo and Patti T. Lenard, "New Challenges in Immigration Theory: An Overview," *Critical Review of International Social and Political Philosophy* 17, no. 5 (2014): 493–502.

frameworks.⁹ Teitelbaum determined that such categorization often depends more on the social perspective of the person making the assessment and less on the actual issue of migration. According to Teitelbaum, North Americans tend to see migration from a “push-pull” framework, in which migrants are simultaneously pushed by undesirable factors in their home countries and pulled by better prospects in the receiving country, the United States. Michael Teitelbaum asserts that academic theories can contribute to a basic understanding of certain factors of human migration patterns but that such theories will always be inadequate because of the tremendous impact and role of states. The scholarship of Aristide Zolberg also suggests that human migration is the product of multiple factors and government policies, and migration cannot be reduced to any one simple formula or theory.¹⁰

Dr. Douglas Massey and Dr. Jorge Durand Arp-Nisen have launched an ongoing sociology study through Princeton University that focuses on the human motivations for immigration in Latin America. The project is called the “Latin American Migration Project,” and collects qualitative and quantitative data through a process known as ethnosurveys.¹¹ Ethnosurveys are intended to provide concise data through a unique structure that allows for cultural flexibility.¹² The goal of the study is to provide a comprehensive picture of human migration in Latin America that takes sociological differences into account.

Most scholars agree that any simplified explanation for human migration lacks the detail that must exist in any system that explores human behavior. In fact, Professor Rodrigo Nieto-Gomez suggests that an over-simplified or linear approach to the complex

⁹ Michael S. Teitelbaum, *Migration and United States—Latin American Relations in the 1980s* (working paper) (Washington, DC: Woodrow Wilson International Center for Scholars, Carnegie Endowment for International Peace, 1984).

¹⁰ Aristide Zolberg, “Matters of State: Theorizing Immigration Policy,” in *The Handbook for International Migration: The American Experience*, eds. Charles Hirschman, Philip Kasinitz, and Joseph DeWind (New York: Russell Sage Foundation, 1999), 71.

¹¹ Jorge Duran Arp-Nisen and Douglas Massey, “Latin American Migration Project,” Princeton University Office of Population Research, accessed October 30, 2015, <http://lamp.opr.princeton.edu/home-en.htm>.

¹² Duran Arp-Nisen and Massey, “Latin American Migration Project.”

problem of immigration is, in fact, creating the problem.¹³ Simplified migrational studies may focus on statistics and research that feature the destination of immigrants but that lacks data and perspectives from the point of departure. Cris Beauchemin's research suggests new multi-sided approaches that incorporate trans-national data must be employed when looking at human movement.¹⁴ Joseph Wiltberger also reminds readers that the countries of departure should be regularly involved in developing immigration policies, as they are an integral component of any migrant's decision to relocate.¹⁵

One academic study performed by Jonathan Hiskey, Jorge Montalvo, and Diana Orcés suggests that there is a strong relationship between democracy and emigration (departure from the country). The study analyzed 22 different countries in Latin America and found the nations with stronger democracies that adequately provide basic governance for its citizens had a smaller portion of its population seeking to immigrate to the United States.¹⁶ Another team of researchers—Uma A. Segal, Nazneen S. Mayadas, and Doreen Elliott—sought to develop a framework that could transcend cultures to explain a person's entire immigration process and the factors that influence each step of a migrant's decision: departure from his homeland, making the journey, selecting a receiving country, and acceptance by the host nation.¹⁷ Academic theorist Amy Cappiccie developed a model for studying the factors that lead to the development of immigration policies.¹⁸ The model takes multiple immigration theories into consideration and is intended to be used cross-culturally to include individual, as well as group and societal factors. Cappiccie explains that immigration policy is profoundly shaped by the

¹³ Rodrigo Nieto-Gomez, *Ctrl+Alt+Delete: Rebooting Immigration Policies through Socio-technical Change* (working paper) (Houston, TX: Rice University April 2013).

¹⁴ Cris Beauchemin, "A Manifesto for Quantitative Multi-Sited Approaches to International Migration," *International Migration Review* (Winter 2014): 921–938.

¹⁵ Joseph Wiltberger, "Bringing Latin America into U.S. Debates on Latino Immigration: Views from El Salvador," *Development* 52, no. 4 (2009): 519–524.

¹⁶ Jonathan Hiskey, Jorge Montalvo, and Diana Orcés, "Democracy, Governance, and Emigration Intentions in Latin America and the Caribbean," *Studies in Comparative International Development* 49, no. 1 (March 2014): 89–111.

¹⁷ Uma A. Segal, Nazneen S. Mayadas, and Doreen Elliott, "A Framework for Immigration," *Journal of Immigrant & Refugee Studies* 4, no. 1 (March 2006): 3–24.

¹⁸ Amy C. Cappiccie, "A New Model for Studying Immigration Policy," *Journal of Immigrant and Refugee Studies* 9, no. 4 (October 2011): 434–451.

elements described in major immigration theories, but policy also includes a range of influencing factors beyond the theories, such as the nation's view of its own citizenship and the occurrence of major international events.¹⁹

The International Union for the Scientific Study of Population Problems (now the International Union for the Scientific Study of Population [IUSSP]) is a scholarly organization that began in 1928 to “promote international scientific co-operation to study the various aspect of population problems, through national committees and through its members themselves.”²⁰ The IUSSP continues to study matters of demography and human movement in order to identify root causes, trends and theories behind why people move from one place to another.²¹ These factors are called, “the determinants of migration.”²² The research from this study suggests that the most comprehensive review of migratory “determinants” comes from looking at multiple perspectives, particularly the perspective of the immigrant that varies according to gender (see Table 1).

Table 1. Motivations for Latin American Migration to the United States by Gender

Variable (motivation for migration)	Females	Males	Total
Economic conditions at origin	17.0%	22.5%	20.3%
Opportunities at destination	17.0%	22.5%	20.3%
Network links	3.8	18.8	12.8
Violence at origin	5.7	1.3	3.0
Family reasons	24.5	20.0	21.8
Other	32.1	15.0	21.8

Adapted from Douglas Massey and Magaly Sanchez-R, *Brokered Boundaries: Creating Immigrant Identity in Anti-Immigrant Times* (New York: Russell Sage, 2010), <http://opr.princeton.edu/archive/iip/>.

¹⁹ Cappiccie, “A New Model.”

²⁰ Douglas S. Massey et al., *Worlds in Motion* (New York: Oxford University Press, 1998), intro.

²¹ Massey et al., *Worlds in Motion*, vii.

²² Ibid., 3.

Philosophical and sociological research supports the idea that an immigrant's decision to move is the product of multiple factors relating to the individual, his or her social group, and his or her role within a particular society. But any explanation for why a person chooses to move must take basic economics into account. Negative assumptions about immigrants, the economy, and job markets are often seen in host nations' anti-immigration rhetoric, particularly among populations with high levels of unskilled labor. D. Champlin, a scholar of economics, explores the argument that excess low-skilled immigrants drive wages down and increase demand for public services.²³ Champlin details how labor markets work and suggests that enacting effective immigration policy for low-skilled immigrants would not negatively harm the labor market but rather improve the labor market for all. Author Max Castro makes a strong case that free markets are enhanced by open borders and today's world of interconnectedness and changing nation-states does not necessarily make a case for stronger border security.²⁴ Scholarship relating to economics and migration demonstrates that free markets can be hindered by heavy restrictions on human movement.

Modern human migration to the United States has been categorized into four phases that verify the strong historical relationship between immigration and economics. The first phase occurred before industrialization, from 1500 to 1800, when large plantations required cheap labor to keep businesses profitable. Humans (both European and African) moved from highly populated areas to the more sparsely populated "new world."²⁵ The industrial period categorized the second phase, from 1800 to 1925, when millions of people moved from Europe to the Americas for work and opportunity.²⁶ This phase terminated abruptly at the beginning of World War I, when the United States began to restrict the number of immigrants allowed to enter the country.²⁷ In the 1960s, world

²³ D. Champlin, "Institutionalist Perspectives on Immigration Policy: An Update," *Journal of Economic Issues* 44, no. 2 (2010): 301–312.

²⁴ Max Castro (ed.), *Free Markets, Open Societies, Closed Borders?: Trends in International Migration and Immigration Policy in the Americas* (Gainesville: University of Florida Press, 1999).

²⁵ Castro, *Free Markets, Open Societies*.

²⁶ Ibid.

²⁷ Douglas S. Massey, "The New Immigration and the Meaning of Ethnicity in the United States," *Population and Development Review* 14 (1995): 383–414.

migration shifted again from the movement of predominantly European migrants to those from Africa, Asia, and the Americas. There are also more countries receiving immigrants today than in the past.²⁸

The United States still operates within a restrictive immigration system, but laws and policies have changed over the years as a result of different acts of legislation. The migratory reality of today is complex, and the basic “push-pull” economic theory that has historically explained human migration no longer makes sense. As Douglas S. Massey and his co-authors explain:

The theoretical approach to immigration that has prevailed for the past fifty years does not adequately come to terms with the complexities of the current reality, and social scientists have consequently begun to question the two pillars upon which earlier models were built. At the micro-level, they question the conceptualization of migrants as rational actors responding to economic disparities between countries. At the macro-level, they question the “push-pull” approach, which views migration as a means of establishing equilibrium between region of labour supply and demand. With seeds of doubt planted about the primacy of economic motives, the conceptual edifice of neoclassical economics has begun to wobble as never before.²⁹

Economics plays a pivotal role in human migration trends, but modern scholarship agrees that it is not the only driving factor. When looking at migration patterns, the sending nation must provide adequate security and economic opportunities for its citizens. An immigrant’s country of origin and cultural context play a pivotal role in human movement decisions. Sending nations bear a large responsibility for discouraging permanent departures. A successful border security or immigration policy should examine the entire trajectory of an immigrant’s decision to relocate: the root causes that exist in sending nations as well as the consequences and security of the receiving nation.

²⁸ Stephen Castles and Mark J. Miller, *The Age of Migration: International Population Movements in the Modern World* (New York: Guilford Press, 1993).

²⁹ Massey et al., *Worlds in Motion*, 8.

2. Refugees, Asylum seekers, and Displaced Persons

Asylum seekers and refugees constitute an important force in immigration patterns. Forced migration is different from economic migration. Forced migration is a human reaction triggered by motives of basic survival. It transcends cultures, languages, and locations. The term “forced migration” implies that the migrant has no viable way to remain safely in any part of his or her country of origin. Because of this urgency, humanitarian migrants can quickly overwhelm existing legal immigration systems and cause serious concern for the security of the receiving nations.

The United States can guard against and/or discourage unlawful entries, but the United States is not likely to implement a strategy to prohibit immigrants from entering the country.³⁰ Such a policy would be contrary to the nation’s identity. No matter what legal immigration structure exists, people will migrate to the United States. Humanitarian migrants seek safety and opportunity with a sense of urgency. Congress created the U.S. Refugee Program as a formal response to counter the international need for resettlement of displaced persons following the persecution and destruction of Europe in World War II.³¹ The legal definition of a refugee determines who qualifies for resettlement in the United States. The definition covers those who fear persecution based on certain immutable characteristics. Many who escape their countries of origin and apply for humanitarian consideration in the United States do not qualify as refugees under the current definition.

Forced migration fundamentally differs from general immigration and economic migratory trends. A formal understanding of forced migration was announced during the 1951 United Nations (UN) Geneva Convention.³² At this time, the United Nations Commission of Human Rights was made up of eighteen UN member nations, and the drafting committee of the Universal Declaration of Human Rights consisted of nine

³⁰ Massey et al., *Worlds in Motion*, 290–291.

³¹ “History of the U.S. Refugee Resettlement Program,” Refugee Council USA, accessed February 15, 2015, <http://www.rcusa.org/index.php?page=history>.

³² “The 1951 Refugee Convention,” United Nations, UNHCR, accessed January 15, 2015, <http://www.unhcr.org/pages/49da0e466.html>.

nation members.³³ Though most nations (particularly those in Africa, Asia, Central America, and South America) were absent from the deliberations, the Universal Declaration of Human Rights remains the founding document for international refugee laws and programs. It articulates many rights, including the right to education, the right to work, the right to security, and the right to a healthy standard of living for all people.³⁴ When basic human rights are denied, forced migration often ensues.

It is tempting for nations to classify the asylum-seeking migrant alongside economic migrants, who are seeking benefits to which they are not necessarily entitled. The distinction between economic and forced migration is incredibly important to immigration policy; as scholar William J. Durch explains: “Under international law, states have no duties or obligations to economic migrants, while refugees, ‘have the right to apply for asylum and to demonstrate the political nature of their plight.’”³⁵ Economic migrants can be refused, but asylum seekers have the right to seek a safe haven. That was the major underlying principle within the Geneva Convention and the modern implementation of the UN Office of the High Commissioner for Refugees.³⁶ When a person requests asylum in the United States and has a valid claim, the country cannot deny the request.

The U.S. definition of a refugee comes directly from the ideas presented by the UN and is housed in the Immigration and Nationality Act of 1952:

The term “refugee” means any person who is outside any country of such person’s nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution

³³ “History of the Document,” UNHCR, accessed February 15, 2015, <http://www.un.org/en/documents/udhr/history.shtml>.

³⁴ “The Universal Declaration of Human Rights Full Text,” United Nations, accessed February 15, 2015, <http://www.un.org/en/documents/udhr/>.

³⁵ William J. Durch, “Keepers of the Gates: National Militaries in an Age of International Population Movement,” in *Demography and National Security*, ed. Myron Weiner and Sharon Stanton Russell (New York: Berghahn Books, 2001), Chapter 4.

³⁶ “History of the Document,” UNHCR.

or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.³⁷

Refugee status is granted in the United States only when a person has been or may be persecuted because of race, religion, nationality, membership in a particular social group, or political opinion. It is important to note that, under the U.S. definition, a person cannot be a refugee from an environmental catastrophe or from general violence that ensues in a region due to a war or a government that is unable to enforce law and order. A refugee must be able to relate the violence or persecution back to an immutable political or social characteristic: a political party, an ethnicity, or tribe. Author Jennifer Hyndman disagrees with this need for distinction, suggesting that all refugee affairs are inherently political; “Nation-states, borders, and refugees,” she explains, “belong to a discourse of conventional geopolitics. Refugees, in the modern sense, are a creation of international law in this century.”³⁸ Each nation is allowed to determine its own definition of a refugee, though many have looked to the foundation laid by the UN to help establish that definition.

Numerous factors working simultaneously may compel a person to seek refuge through migration. Scholar Jacques Vernant explored this issue in 1953 when he published his book, *The Refugee in the Post-War World*. In this book, Vernant argued that it is increasingly difficult to distinguish when human movement is politically or economically motivated due to a complex and overlapping relationship between the two.³⁹ Aristide Zolberg, Astri Suhrke, and Sergio Aguayo argue that the two major dichotomies used by most Western nations to distinguish refugees from other immigrants are insufficient—the idea that refugees move involuntarily, as opposed to voluntarily, and that they move because of political forces, as opposed to economic forces.⁴⁰ Zolberg, Suhrke, and Aguayo explain that a refugee is defined (by the United States and other UN

³⁷ Immigration and Nationality Act, § 101(a)(42), 8 U.S.C., § 1101 (1952).

³⁸ Jennifer Hyndman, *Managing Displacement: Refugees and the Politics of Humanitarianism* (Minneapolis: University of Minnesota Press, 2000), xvi.

³⁹ Jacques Vernant, *The Refugee in the Post-War World* (New Haven, CT: Yale University Press, 1953), 5.

⁴⁰ Vernant, *The Refugee*, 30–31.

member nations) as one of two types, “(as) an activist, engaging in some politically significant activity that the state seeks to extinguish; and ... as a target, by misfortune of belonging—often by accident of birth—to a social or cultural group that has been singled out for the abuse of state power.”

But the authors argue a third category has emerged since the UN definitions were established—“the refugee as a mere victim.”⁴¹ Zolberg, Suhrke, and Aguayo agree that the legal definition of a refugee should not hinge upon the relationship between the refugee and the political motives of the violence from which the refugee flees.⁴² Zolberg, Suhrke, and Aguayo suggest that a refugee can be any person who is victimized when he or she is unable to remain in his or her home country due to an ongoing elevated level of violence and local authorities’ inability to provide a working system of law and order. The legal definition of a refugee used in the United States is found in the Immigration and Nationality Act. The U.S. definition rejects the idea of generalized victimization due to elevated violence in a region. The Immigration and Nationality Act requires a refugee to tie acts of violence in his or her home country specifically to his or her race, religion, nationality, membership in a particular social group, or political opinion.⁴³

The definition of forced migration was expanded by the 1984 Cartagena Declaration. The declaration was written with the assistance of the UN High Commissioner for Refugees (UNHCR) to address regional refugee issues in Central and South America. The Cartagena Declaration uses a broader definition of a refugee, to include “persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”⁴⁴ The Cartagena Declaration is not a binding agreement, but it has been used as

⁴¹ Sergio Aguayo, Astri Suhrke, and Aristide R. Zolberg, *Escape from Violence: Conflict and the Refugee Crisis in the Developing World* (New York: Oxford University Press, 1989), 30.

⁴² Aguayo, Suhrke, and Zolberg, *Escape from Violence*, 33.

⁴³ Immigration and Nationality Act, § 101, 8 U.S.C. § 1101 (1952).

⁴⁴ “The Cartagena Declaration,” presented at the Colloquium on International Protection of Refugees in Central America, Mexico and Panama: Juridical and Humanitarian Problems (Cartagena, Colombia, 1984), accessed May 10, 2015, <http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documents/BDL/2001/0008>.

the basis for several Central American countries' refugee policies, including Mexico's. The refugee definition used in the Cartagena Declaration was derived from the 1969 Organization of African Unity, which also expanded the original UN definition to include persons displaced due to generalized violence.⁴⁵ The United States was not present for the creation of the 1984 Cartagena Declaration and has never formally updated its refugee definition to include this larger category of displaced persons.⁴⁶ As a consequence, barriers remain high for refugees finding their way to safety in the United States.

Gil Loescher, James Milner, and Edward Newman published *Protracted Refugee Situations: Politics, Human Rights, and Security* through their work in with the UN. The book discusses protracted refugee situations, which are defined as any situation in which a refugee is left in political limbo, often in refugee camps or by requesting asylum from a host nation. At the time of their research, the majority of international refugees were considered to be in protracted situations, as opposed to emergent situations.⁴⁷ Scholars have noted trends in developed nations that demonstrate public resistance to asylum seekers and those who find themselves in protracted migratory statuses.

3. The American Dream

The United States has historically had great appeal as a destination for any type of immigrant. The national rhetoric surrounding immigration law and policy in the United States is that the country is a nation consistently welcoming of immigrants: "America is the largest and by far the most important immigrant-receiving country in the world and is seen, not only by people inside the United States but also by billions of others around the world, as the land of opportunity, a place where anyone from anywhere in the world

⁴⁵ UNHCR, *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa* (Geneva, Switzerland: UNHCR, 1969).

⁴⁶ "Cartagena +30," UNHCR, accessed May 10, 2015, <http://www.acnur.org/cartagena30/en/background-and-challenges/>.

⁴⁷ Gil Loescher, James Milner, and Edward Newman, *Protracted Refugee Situations: Politics, Human Rights, and Security* (Tokyo, Japan: United Nations University Press, 2008), 20, 46.

could have a chance of success.”⁴⁸ The United States dominates the world’s landscape in the sheer number of immigrants who are welcomed into the country. In 2013, the United States took in 69,926 refugees of the 70,000 authorized by Congress.⁴⁹ That same year, the United States received 88,400 requests for asylum.⁵⁰ Asylum requests went up 25 percent from the previous year, largely due to the increased requests from Syrians, Hondurans, and Egyptians.⁵¹ According to the country operations profiles for the UNHCR, the United States and Germany have 455,048 and 455,081 refugees and asylum seekers in the country, respectively.⁵² Germany has the largest number compared to any other country in the European Union. Canada has 165,874.⁵³ Scholar Elizabeth Cohen calls this phenomenon the “public philosophy of immigration,” and argues that these ideals must mirror the actions taken in a country to create and enforce immigration policies.⁵⁴

Despite the United States’ generous immigration policies, research suggests that public attitudes in the United States are not quite as generous. In fact, the public is generally not in favor of expanding immigration programs.⁵⁵ Scholar Peter Schuck summarized the following general attitudes of the American public, based on survey data from 1997:

Americans like immigrants more than they like immigration, favor past immigration more than recent immigration, prefer legal immigrants to illegal ones, prefer refugees to other immigrants, support immigrants’

⁴⁸ Fathali M. Moghaddam, *Multiculturalism and Intergroup Relations* (Washington, DC: American Psychological Association, 2011), 42.

⁴⁹ “FY 13 Refugee Admissions Statistics,” Department of State, Bureau of Population, Refugees, and Migration, last modified July 1, 2014, <http://www.state.gov/j/prm/releases/statistics/228666.htm>.

⁵⁰ “UNHCR Asylum Trends 2013,” UNHCR, last modified March 26, 2014, <http://www.unhcr.org/5329b15a9.pdf>.

⁵¹ “UNHCR Asylum Trends 2013,” UNHCR.

⁵² “2015 UNHCR Subregional Operations Profile - North America and the Caribbean,” UNHCR, last modified December 2014, <http://www.unhcr.org/pages/49e492086.html>.

⁵³ “2015 UNHCR Subregional Operations Profile - North America and the Caribbean,” UNHCR.

⁵⁴ Elizabeth Cohen, “Carved from the Inside out: Immigration and America’s Public Policy of Citizenship,” in *Debating Immigration*, ed. Carol M. Swain, 32 (New York: Cambridge University Press, 2007), 32.

⁵⁵ Peter Schuck, “The Disconnect between Public Attitudes and Policy Outcomes in Immigration,” in *Debating Immigration*, ed. Carol M. Swain (New York: Cambridge University Press, 2007), 18–19.

access to educational and health benefits but not to welfare or social security, and feel that immigrants' distinctive cultures have contributed positively to American life and that diversity continues to strengthen American society today.⁵⁶

It is important to note Schuck's finding that Americans "prefer refugees to other immigrants." Based on this information, there appears to be a disconnect between national values, immigration policies, and public opinion on immigration matters.

Americans rely on individual achievement and success, as opposed to a larger collective group success. In examining psychological considerations of a population such as refugees or asylum seekers, it is essential to recognize the importance of group membership and categorization. Social identity theory tells us that all humans categorize their social groups based on perceptions of where their own "ingroup" fits in relationship to other social "outgroups."⁵⁷ Author Fathali Moghaddam is quick to point out that, although the actual process of social categorization is shared among all humans (we all do it), the categories and boundaries differ based on social and political factors.⁵⁸ The American rhetoric that promotes immigration is furthered by the attraction that, when an immigrant does make it to the United States, social classes in America are fluid. A major component driving this momentum is the American orientation toward "self-contained individualism."⁵⁹ Not only can a person get to the United States, but he or she can then work hard to achieve the "American dream." In a long-term study of Latin American migrants coming to the United States, the overwhelming number of interviewed subjects reported that their main motivation in coming to the United States was the "dream" of improving their lives.⁶⁰

⁵⁶ Schuck, "The Disconnect."

⁵⁷ John C. Turner, *Social Identity and Intergroup Relations*, ed. Henri Tajfel (New York: Cambridge University Press, 1982), 17–28.

⁵⁸ Moghaddam, *Multiculturalism and Intergroup Relations*, 38-40.

⁵⁹ Ibid.

⁶⁰ Douglas S. Massey and Magaly Sanchez-R, *Brokered Boundaries: Creating Immigrant Identity in Anti-Immigrant Times* (New York: Russell Sage, 2010), 119.

C. METHODOLOGY FOR RESEARCH

The three countries selected for use as case studies (Honduras, Cuba, and Syria) each present unique challenges to U.S. humanitarian immigration policy. The countries are explored in great detail using fictional scenarios and characters who interact with U.S. immigration programs available to them. The case studies feature real places, trends, and migratory events. Humans are naturally wired to tell and listen to stories in order to produce empathy among fellow humans. The dialog was created to allow readers to better empathize with the realities faced by the specific population that seeks international assistance.

Empathy is an incredibly powerful emotion and source of social contract.⁶¹ Empathy, or the process of understanding a fellow being through his or her experience, is not to be confused with sympathy.⁶² Sympathy is considered an observational emotion—feeling bad about another person’s situation—but empathy “is a type of vicarious emotion: it’s feeling what one takes another person to be feeling.”⁶³ New York University Professor of Psychology Martin L. Hoffman has studied the relationship between human empathy and moral development. Of specific interest to Hoffman is the internal human emotional struggle between caring and justice.⁶⁴ On one hand, humans are biologically wired to care about fellow human beings; “humans are built in such a way that they can involuntarily and forcefully experience another’s emotion—that their distress is often contingent not on their own, but someone else’s painful experience.”⁶⁵ Human empathy can also extend into a feeling of injustice when humans see good people suffer from an unfair system.⁶⁶ If a human being lacks the ability to empathize with other human beings, psychological research suggests that this inability signals the presence of a

⁶¹ Binmore, *Natural Justice*, 113–115.

⁶² “All About Empathy,” Psychology Today, accessed December 22, 2015, <https://www.psychologytoday.com/basics/empathy>.

⁶³ Jesse J. Prinz, *Empathy: Philosophical and Psychological Perspectives*, eds. Peter Goldie and Amy Coplan (New York: Oxford University Press, 2011), 1–2.

⁶⁴ Martin L. Hoffman, *Empathy and Moral Development: Implications for Caring and Justice* (New York: Cambridge University Press, 2000), 4–8.

⁶⁵ Hoffman, *Empathy and Moral Development*.

⁶⁶ Ibid.

major psychological disorder such as antisocial personality disorder or psychopathic disorder.⁶⁷

The ability to form empathy is a natural and healthy human condition. It is one of the emotions necessary to produce morality at its most basic level. Primate behavior researcher Frans de Waal suggests that empathy is a basic animal instinct shared among primates and humans.⁶⁸ During a 2013 CNN interview, in a segment called, “He Studies Where Morals Come From,” de Waal explains that morality is older than religion: “Very long ago our ancestors had moral systems. Our current institutions are only a couple of thousand years old, which is really not old in the eyes of a biologist.”⁶⁹ Empathy is a part of our ancestral biological makeup. An immigration system is designed for and used by human beings. Empathy is a necessary and natural part of human interaction within that system.

All healthy human beings are empathetic to some degree, but empathy should be counterbalanced by a consideration of other factors, such as a person’s history, culture, and environment.⁷⁰ Factors outside the human mind contribute to a person’s unique worldview, whether that person is an immigrant or an American-born citizen. One’s own accepted social patterns can cause distortion and even imaginative resistance when trying to understand another person’s behavior.⁷¹ Imaginative resistance is the reason that people are unable to fathom certain human behaviors. For example, if an American citizen were to encounter an unaccompanied immigrant child in the southwest desert seeking to enter the United States unlawfully, the American citizen’s empathy may be blocked due to imaginative resistance. The citizen may be completely unable to see how the child’s parents would allow for such an action or why the child would be willing to

⁶⁷ R.J.R. Blair, “A Cognitive Developmental Approach to Morality: Investigating the Psychopath,” *Cognition* 57, no. 1 (October 1995): 1–2.

⁶⁸ “Frans de Waal,” Emory University, accessed December 22, 2015, http://www.emory.edu/LIVING_LINKS/people/dewaal.shtml.

⁶⁹ Kelly Murray, “He Studies Where Morals Come From,” CNN, May 16, 2013.

⁷⁰ Karsten R. Stueber, *Rediscovering Empathy: Agency, Folk Psychology, and the Human Sciences* (Cambridge, MA: MIT Press, 2006), 207–213.

⁷¹ Stueber, *Rediscovering Empathy*.

comply. It is at this point that the American citizen must try to rely on his or her understanding of the factors beyond empathy—the child’s history, culture, and environment—to see the totality of the situation. Humanitarian immigration is ultimately a human experience. The urgent need that surrounds an individual’s decision to migrate is not fixed in time. It is a personal human decision that gradually arises within a cultural context following a series of life events, and is best understood through empathy and narration. Narratives help readers “make sense” of highly complex information. Narration or storytelling is recommended as a learning tool, particularly for use by organizations and adult learners.⁷²

The experience of humanitarian immigration from Honduras, Cuba, and Syria can only be understood by incorporating elements of the immigrants’ history, culture, policy, laws, motivations, and opportunities. Narrative inquiry, or studying the stories of subjects, is a research tool that incorporates individual and societal contexts.⁷³ Case studies are the best choice for instructors or authors who wish to focus their readers on a process.⁷⁴ As researcher D. B. Bromley explains, case studies “get as close to the subject of interest as they possibly can, partly by their access to subjective factors (thoughts, feelings, and desires), whereas experiments and surveys often use convenient derivative data, e.g., test results, official records. Also, case studies tend to spread the net for evidence widely, whereas experiments and surveys usually have a narrow focus.”⁷⁵

The fictional scenarios presented in this research are carefully crafted to show systematically all U.S. humanitarian immigration programs available for three countries of interest: Honduras, Cuba, and Syria. Other details have been included to provide context that explains why and how those programs exist for immigrants from those locations. The end product is similar to what researchers D. Jean Clandinin and F.

⁷² Jeremy Gray and Enzo Caminotti, “The Effectiveness of Storytelling on Adult Learning,” *Journal of Workplace Learning* 24, no. 6 (2012): 430–438.

⁷³ Colette Daiute, *Narrative Inquiry* (Los Angeles: Sage, 2014), xviii.

⁷⁴ Sharan B. Merriam, *Qualitative Research and Case Study Applications in Education* (San Francisco: Jossey-Bass, 1998), 33.

⁷⁵ D. B. Bromley, *The Case-Study Method in Psychology and Related Disciplines* (New York: Wiley, 1986), 23.

Michael Connelly explain as “‘grand contraptions’ built on multiple, fluid foundations, and formed into ambiguous shapes that may ring more, or less, crisp and clear as one thing from one vantage point and another from another vantage point.”⁷⁶ Narratives are used to convey information as a part of daily life, and represent a natural way to organize and explain human experience.⁷⁷ However, it is important, particularly when dealing with narrative texts, to provide some general structure or format so that readers have a clear understanding of what is intended to be presented through the narration.⁷⁸

While fictional scenarios help develop empathy, display cultural context, and otherwise humanize a complex legal issue, immigration policy is created with little regard for the immigrant’s point of view. Primary sources that document an immigrant’s migratory experience do not typically capture all the immigration policies affecting an immigrant’s personal decisions. The policies and statistics do not explain who applies or who qualifies for the programs. Alternatively, actual immigration case decisions for asylum seekers and refugees in the United States remain confidential under strict privacy laws and do not capture the origins of a migrant’s journey. Each single set of sources fails to tell the entire story. The narratives created through this research attempt to explore the complexity of human immigration through the entire process.

The fictional scenarios yield comprehensive explanations and factual possibilities. The scenarios do not focus on the routes or means used for migratory travel but rather on the motivations of the immigrant, the legal immigration options available, and the decisions immigrants make based on those options. Some immigrants are successful in their pursuits, while others are not. The different pathways used by the immigrants in the scenarios to obtain varying degrees of lawful immigration status are based on U.S. government statistics. Within the fictional scenarios, there is a complete overview of U.S. humanitarian immigration policy and the programs available for immigrants from Honduras, Cuba, and Syria. This review includes a detailed description of the programs

⁷⁶ Bromley, *Case-Study Method*.

⁷⁷ Kristin Langellier and Eric E. Peterson, *Storytelling in Daily Life: Performing Narrative* (Philadelphia: Temple University Press, 2011), 2–14.

⁷⁸ D. Jean Clandinin and F. Michael Connelly, *Narrative Inquiry* (San Francisco: Jossey-Bass, 2000), 154–155.

in use and a brief history of U.S. political intervention through immigration, starting with U.S. policies such as Temporary Protected Status, the Cuban Adjustment Act, and the U.S. Refugee Program.

After presenting the U.S. humanitarian immigration policy options in use for the three countries and case studies, the research analyzes how humanitarian immigration laws and programs relate to national security objectives. Many U.S. immigration programs were designed as an urgent humanitarian response to a particular event in a specific country and operate independently of one another. A reactive approach to solving migratory crises results in a fragmented response with complicated rules and occasional contradictions for the very populations they intend to assist. This research provides a series of recommendations to create a more unified approach for humanitarian immigration policy by viewing the entire problem from the eyes of displaced immigrants, and in pursuit of the American public's best interests and security.

D. DISCLAIMER

This research is guided by the unique perspective of the author, Catherine Ventura, who has worked as an immigration officer since 2002. During her career, Ms. Ventura has had the opportunity to formally represent the Department of Homeland Security (DHS) overseas as a diplomat in Central America and Asia. Ms. Ventura has first-hand experience listening to the personal narratives of refugees and adjudicating matters of humanitarian immigration law. The opinions expressed in this document are those of the author and do not represent or reflect the opinions of the Department of Homeland Security. The narratives used in this research are works of fiction based on actual places, events, and immigration programs. Names, characters, and businesses are either the products of the author's imagination or used in a fictitious manner. Any resemblance to actual persons, living or dead, is purely coincidental.

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II. CASE STUDY: HONDURAS

A. COUNTRY CONTEXT

Honduras is used as the first case study because it is geographically connected to the United States. An emergent migratory situation occurred at the southern border of the United States in 2013 and 2014, when thousands of undocumented immigrants, many of whom were women and minors, fled Honduras and Central America on foot to seek refuge in the United States. The U.S. House of Representatives Judiciary Committee suggested that Central Americans were coming to the United States illegally on foot because it could afford them asylum.⁷⁹ In 2014, the U.S. Customs and Border Patrol apprehended 51,705 unaccompanied minors from El Salvador, Guatemala, and Honduras—more than double the number of minors detained in the previous year.⁸⁰ Testimony made to Congress by the U.S. Citizenship and Immigration Services Associate Director of the U.S. Refugee, Asylum, and International Operations Directorate on July 7, 2015, stated that 92 percent of the unaccompanied minors who filed for asylum status were from El Salvador, Guatemala, and Honduras, with an overall approval rate of 42.6 percent.⁸¹ Although asylum can be granted in some of the cases, the United States has not allowed for the systematic screening of refugees in any Central American country because most Central American applicants do not meet the current U.S. legal definition of a refugee.

⁷⁹ Kathryn Rexrode and Jessica Collins, “Judiciary Obtains Data Showing Majority of Central Americans’ Asylum Claims Immediately Approved,” U.S. House of Representatives Judiciary Committee, last modified July 18, 2014, http://judiciary.house.gov/index.cfm/press-releases?ContentRecord_id=D9573AEB-21E9-453A-BE8D-AF01A482E9B7.

⁸⁰ “Southwest Border Unaccompanied Alien Children FY 2014,” Customs and Border Protection, accessed January 15, 2015, <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2014>.

⁸¹ *The 2014 Humanitarian Crisis at our Border: A Review of the Government’s Response to Unaccompanied Minors One Year Later, testimony before the Senate Committee on Homeland Security and Government Affairs* (written testimony of Joseph E. Langlois), last modified July 7, 2015, <http://www.uscis.gov/tools/resources-congress/testimonies-and-speeches/2014-humanitarian-crisis-our-border-review-governments-response-unaccompanied-minors-one-year-later-senate-committee-homeland-security-july-2015-associate-director-joseph-e-langlois>.

Recent studies and news articles confirm the proliferation of organized crime, drug cartels, gangs, and violence in Central America. The northern triangle of Central America (El Salvador, Guatemala, and Honduras) is currently one of the most violent areas in the world.⁸² Honduras is the single most popular entry point for U.S.-bound cocaine shipments from South America.⁸³ Honduras also has the world's highest murder rate, according to the two most recent UN Global Studies on Homicide. The United States does not accept refugees who are victims of general violence unless the violence is based on one of the five protected grounds: race, ethnicity, nationality, religion, or membership in a particular social group.⁸⁴ Thus, according to the last five annual reports published by the Department of State's Bureau of Population, Refugees and Migration, the United States has accepted a total of 25 Honduran refugees.⁸⁵

On the other hand, Hondurans have had ongoing Temporary Protected Status in the United States because of a humanitarian crisis caused by the environment. In 1997, Hurricane Mitch devastated the country.⁸⁶ There are more than 300,000 Temporary Protected Status recipients from 12 different countries in the United States today. Together, immigrants from Honduras and El Salvador make up approximately 265,000 of these recipients.⁸⁷ David North of the Center for Immigration Studies points out that no country has been removed from the U.S. Temporary Protected Status list since 2009, but the number of recipients is decreasing. Those who qualify find it difficult to submit the annual renewal paperwork and fees, and instead choose to live in the United States

⁸² "CENTRAL AMERICA/U.S.: No Quick Fix for Migration Crisis," Oxford Analytica, July 21, 2014, http://relooney.com/NS4540/Oxford-CA_8.pdf.

⁸³ "Cocaine from South America to the United States," United Nations Office of Drugs and Crime, accessed July 27, 2015, https://www.unodc.org/documents/toc/Reports/TOCTASouthAmerica/English/TOCTA_CACaribb_cocaine_SAmerica_US.pdf

⁸⁴ Immigration and Nationality Act, § 101, 8 U.S.C. § 1101 (1952).

⁸⁵ "Refugee Admission Statistics," Department of State Bureau of Population, Refugees, and Migration, accessed August 8, 2015, <http://www.state.gov/j/prm/releases/statistics/index.htm>.

⁸⁶ "Temporary Protected Status Designated Country: Honduras," U.S. Citizenship and Immigration Services, last modified September 21, 2015, <http://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-honduras>.

⁸⁷ Lisa Seghetti, Karma Ester, and Ruth Ellen Wasem, *Temporary Protected Status: Current Policy and Issues* (CRS Report No. RS20844) (Washington, DC: Congressional Research Service, January 12, 2015), 2–3.

without lawful immigration status.⁸⁸ An effort made by the 113th Congress in 2013 would have allowed Temporary Protected Recipients to convert to Lawful Permanent Resident status as part of a Comprehensive Immigration Reform, but the bill never passed in the House of Representatives.⁸⁹

Human Rights Watch, a non-governmental organization, has demonstrated that Hondurans and other Central Americans who claim asylum and wait for a deportation hearing endure the lengthy psychological trauma of an uncertain future.⁹⁰ These refugees and the recipients of Temporary Protected Status fall under the protracted refugee category.⁹¹ Scholars Sarah Blanchard, Erin R. Hamilton, Nestor Rodriguez, and Hirotoshi Yoshioka examined the increasing Honduran immigration and deportation trend through a demographic study that considered multiple factors including gang activity, increasing levels of violence in Honduras, and an overall lack of scholarly attention paid to the country.⁹² In response to the migratory crisis of 2014, the United States opened a very small in-country refugee-processing program for Central American minors. The program has not received significant media attention and features complicated rules and requirements.⁹³ Today, the debate on how to handle this humanitarian immigration crisis continues even after significant public pressure and a U.S. District Court judge ordered the immediate release of minors and mothers from the immigration detention centers.⁹⁴ Prolonged periods of violence and environmental

⁸⁸ David North, “Leaving TPS Doesn’t Necessarily Mean Going Home,” Center for Immigration Studies, last modified July 2015, <http://cis.org/Leaving-TPS-Doesnt-Mean-Going-Home>.

⁸⁹ Border Security, Economic Opportunity, and Immigration Modernization Act, S. S.744, 113th Cong., 1st Sess. (2013).

⁹⁰ “U.S.: Trauma in Family Immigration Detention,” Human Rights Watch, last modified May 15, 2015, <https://www.hrw.org/news/2015/05/15/us-trauma-family-immigration-detention-0>.

⁹¹ Loescher, Milner, and Newman, *Protracted Refugee Situations*, 20, 46. See also page 15 of the current document.

⁹² Sarah Blanchard et al., “Shifting Trends in Central American Migration: A Demographic Examination of Increasing Honduran-U.S. Immigration and Deportation,” *Latin Americanist* 55, no. 4 (2011), doi: 10.1111/j.1557-203X.2011.01128.x.

⁹³ “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala,” U.S. Citizenship and Immigration Services, last modified June 1, 2015, <https://www.uscis.gov/CAM>.

⁹⁴ Cindy Carcamo and Molly Hennessy-Fiske, “Detained Immigrant Mothers and Children Trapped in Legal Limbo,” *Los Angeles Times*, August 7, 2015, <http://www.latimes.com/>.

disasters can trigger patterns of forced humanitarian migration; such is the case in Central America.

B. FICTIONAL SCENARIO

Carolina tapped nervously on her luggage as she waited outside the international terminal in Orlando, Florida. She put her passport back in her purse and hoped she would recognize her cousin Jessica. Carolina had not seen Jessica in over 20 years. A wave of sadness swept over Carolina as she looked over at her husband and their two children sitting next to her. The kids had no idea they were not returning to Honduras. It was best not to tell them everything at once. For now, it was a vacation and a trip to Disney World.

Carolina had fallen in love with the idea of being a journalist in high school and went on to study communications and public relations at the University of San Pedro Sula.⁹⁵ She even helped start the school's first campus TV station, which was now the only HD channel broadcasting in Honduras.⁹⁶ Until the present, Carolina had worked for a television network called Televicentro Honduras for 10 years. It was a great job, and it allowed her to live her dream of being a news broadcaster in her hometown of San Pedro Sula. But in July, Herlyn Espinal, another reporter working for the Hoy Mismo show on the same network, had been killed. The murder investigation never went anywhere. More than 30 journalists had been killed in Honduras from 2010–2013, and no one was brought to justice.⁹⁷ Carolina's home was now the world's most dangerous city. How did it happen so fast?

She just couldn't do it any longer. Carolina's entire family was from Honduras and she had lived there her whole life. She was proud of all she had accomplished and could not imagine starting over in the United States, but she had no choice.

⁹⁵ "Bachelor of Science in Communication and Public Relations," Uneversidad de San Pedro Sula, accessed October 9, 2015, <http://www.usap.edu/academicos/facultades/comunicacion-y-publicidad/>.

⁹⁶ "Campus TV," Campus Television of Honduras, accessed October 9, 2015, <http://www.campushd.tv/>.

⁹⁷ "Murdered Journalists: Forever Silencing their Voices," *La Tribuna* (Tegucigalpa, Honduras), May 25, 2015.

Carolina watched the cars as they slowed and stopped under the American Airlines signs, searching hard for her cousin's familiar face.

The first threat had come last December, over the phone, right after Televicentro ran her story covering President Juan Orlando Hernandez's speech on crime. The president remarked that at least 80 percent of all crime in Honduras was related to drug trafficking.⁹⁸ This was no secret. Former President Porfirio Lobo and current President Juan Orlando Hernandez were supposed to be different. The 2009 coup was supposed to change things.⁹⁹

Carolina had to work late that night, editing footage, but her driver took her home around 8:30 p.m. The kids were already in their pajamas. The housekeeper said goodnight and went to her room, just past the kitchen. Carolina's husband was out that evening, watching the Marathon game at a bar.¹⁰⁰ Carolina got the kids ready for bed. Finally, around 9:30 p.m., she sat down at the table with a plate for dinner when her cell phone rang from an unknown number.¹⁰¹ The caller was a man who did not identify himself. He told Carolina she was late paying her rent. There must be some mistake, Carolina responded; she owned her house. No—Mara Salvatrucha owned her block, the man told her, and her rent was past due. The phone changed hands and a second man threatened to spray her house with bullets. He knew Herlyn and that Carolina worked for Televicentro. He knew the name of her children's school. The first caller came back on the line and said Carolina must pay \$2,000 U.S. dollars to ensure her immediate protection. Someone would pick up the money in three days. The caller instructed her to keep her phone close for more instructions. Rent always had to be paid on time, or Carolina would be reporting the news of her own kids' untimely deaths.

⁹⁸ “Juan Orlando Hernández: At Least 80% of Crime in Honduras is the Fault of Narcotrafficking,” Televicentro Honduras, last modified December 16, 2014, <http://televicentro.hn/nota/2014/12/16/joh-al-menos-el-80-de-los-cr%C3%ADmenes-en-honduras-son-culpa-del-narcotr%C3%A1fico>.

⁹⁹ Elizabeth Malkin, “Honduran President is Ousted in Coup,” *New York Times*, June 28, 2009.

¹⁰⁰ “National Professional Soccer League of Honduras,” Televicentro Honduras, accessed October 14, 2015, <http://televicentro.hn/nota/2014/12/16/joh-al-menos-el-80-de-los-cr%C3%ADmenes-en-honduras-son-culpa-del-narcotr%C3%A1fico>.

¹⁰¹ Kyra Gurney, “What an Extortion Call in Honduras Sounds Like,” *Insight Crime*, March 4, 2015, <http://www.insightcrime.org/news-analysis/what-an-extortion-call-in-honduras-sounds-like>.

As soon as the caller hung up, Carolina realized she was shaking. Not wanting to scare the kids, she tiptoed over to the security camera screens and checked around outside their front gate. Nothing seemed out of the ordinary, but she immediately phoned her husband, Carlos. The bar was loud in the background. Carolina spoke quickly, in her matter-of-fact reporter's voice, and told Carlos what had happened. Carlos told her he was coming home and instructed Carolina to call the Departamento Nacional de Investigaciones Criminales (DNIC) immediately.

Carolina contacted one of her investigator friends who worked for the DNIC. Everyone there knew Carolina from her work at Televicentro. The DNIC was the top Honduran law enforcement agency dedicated to countering violence, and worked regularly with officials at the U.S. Embassy to help bring important criminals to justice through the Honduran court system or extradition to the United States.¹⁰² But Carolina knew her phone call to DNIC was like throwing a bucket of water at a forest fire—it would not be enough.

Her friend from the DNIC dispatched two officers to her house to complete a formal report. The DNIC wrote down her cell phone number and agreed to open a formal file for Carolina in case any future incidents occurred. When Carlos arrived home, he hugged his wife and made sure their own security guard (armed with a military-issued Galil rifle) stayed overnight at the house.¹⁰³ Carolina felt more and more danger surrounding her job and her city, especially after Herlyn's murder. Daily incidents of violence and countless murders went unsolved.¹⁰⁴ When did it all get so bad?

The next day, Carolina and her family left to stay with friends in Tegucigalpa. She used her contacts to schedule a personal meeting with U.S. Embassy representatives to discuss her situation. She wondered if she had any options for asylum in the United

¹⁰² "Extradition Convention between the United States and Honduras 1912," *American Journal of International Law* 6, no. 4 (October 1912): 252–258, doi: 10.2307/2212191.

¹⁰³ "Honduras: National Police of Honduras," Interpol, accessed November 16, 2015, <http://www.interpol.int/es/Pa%C3%ADses-miembros/Am%C3%A9ricas/Honduras>. See also Benjamin Bait-Hallahm, *The Israeli Connection: Whom Israel Arms and Why* (London: IB Tauris, 1988), 88–89.

¹⁰⁴ "Women on the Run: First Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras and Mexico," UNHCR, last modified October 2015, http://www.unhcrwashington.org/sites/default/files/Women%20on%20the%20Run%20Report_Full%20Report%20for%20Web%20Nov%202015.pdf.

States, given her position in journalism, the recent threat, and the high level of danger for all Honduran journalists. The Embassy officials explained that Carolina could use her valid visitor's visa if she needed to take a break from everything for a few weeks. Otherwise she could register with the United Nations office in San Jose, Costa Rica, which had jurisdiction over refugee concerns in Central America.¹⁰⁵ She had no other immigration options unless she could find a company in the U.S. to sponsor a work visa. There was nothing they could do to assist Carolina directly from Honduras.

"Hola, mi prima!!!" Carolina snapped into the present moment as she saw a woman with gold-rimmed aviator sunglasses and a long gold necklace open her car door and trot over with outstretched arms.

"Ay, yay, yay, Jessica! Tanto tiempo..." said Carolina. It had been so long since she'd seen her cousin, but somehow it didn't matter. Carolina hugged her hard, relieved to see family. They piled the luggage and the kids into the car. Jessica explained that her daughter was waiting for them at the house, but that her son was still in the town of El Progreso with their grandmother. Carolina decided not to say anything yet to Jessica about the rumors of Jessica's son leaving El Progreso for the United States several months ago. Carolina was not that close to this side of the family.

Jessica remarked that the last time they had seen one another was before the hurricane in 1997, and Carolina sadly agreed. That same year, Jessica had run away to the United States by herself without any papers and never returned home. Luckily for Jessica, the United States was allowing Hondurans to register for Temporary Protected Status after the hurricane. Jessica had expected to stay for a few months, maybe a year or two, but the Temporary Protected Status made it much easier for her to find a job and send money back to the family, so she stayed. Jessica's departure was a shock to her whole family, especially their grandmother, who was left to care for Jessica's two-year-old son.

¹⁰⁵ "2015 UNHCR Subregional Operations Profile - Latin America," UNHCR, accessed November 16, 2015, <http://www.unhcr.org/pages/49e492456.html>.

Carolina's mother often said that her sister's family would always be poor. But as Carolina rode through the quiet suburban streets of Orlando in her cousin's car, she didn't think Jessica looked poor at all. Not that it mattered. Carolina was just happy to see a familiar face. She had no other family in the United States, and she knew she couldn't return to Honduras. It wasn't safe for them. They would have to find a way to stay.

C. IMMIGRATION OPTIONS

There are multiple U.S. humanitarian immigration programs at work for or of interest to Carolina's fictitious Honduran family. Carolina had no issue entering the United States through the Orlando International Airport because she had a B-2 visitor's visa issued by the U.S. Embassy in Honduras. The Department of State notes that the ability for an applicant to pay for his or her trip and otherwise establish economic ties to his or her home country is a strong factor when determining eligibility for a visitor's visa.¹⁰⁶ Carolina was well-educated and had long-time employment with *Televicentro*, a stable Honduran employer. Carolina and her family owned a home and could provide documentation of a bank account with sufficient funds to cover the costs of international travel.

This type of evidence is reviewed by a Department of State Consular officer during a face-to-face non-immigrant visa interview. The Department of State also photographs and fingerprints all visitor visa applicants and conducts a background check to determine if visa issuance is appropriate. There is no formal appeal process available to foreign nationals who receive a negative determination made by the consular officer. Anyone denied a visitor's visa is encouraged to reapply in the future. There are many other types of visas (e.g., family visas, student visas, work-based visas), each with their own requirements. As this study pertains to humanitarian immigration programs, other work and family-based visa options are not covered.

¹⁰⁶ "Visitor Visa," Department of State Bureau of Consular Affairs, accessed November 13, 2015, <https://travel.state.gov/content/visas/en/visit/visitor.html>.

Cousin Jessica entered the United States without legal status in 1997. As a young single woman with limited economic means and no stable employment, it would have been difficult for Jessica to obtain a B-2 visitor's visa from the U.S. Embassy in Honduras in order to enter the country legally. Because Honduras is geographically connected to the United States by way of Mexico and Guatemala, its geography offers an alternative for those willing to risk the danger of an illegal entry by land through the southern border of the United States. When Jessica entered the United States in the late 1990s, Honduras was a very poor country. The Gross National Income (GNI) for Honduras, as calculated by the World Bank in U.S. dollars, fluctuated between \$660 and \$920 from 1996 to 2000. The GNI for the United States was between \$30,380 and \$36,070 during the same time period.¹⁰⁷ Jessica would have weighed the dangers associated with an unlawful entry into the United States and determined that those potential dangers were preferable to her current living situation and/or future opportunities in Honduras. Jessica then made the journey north.

1. Temporary Protected Status

Luckily for our fictional character, Jessica, Hurricane Mitch struck Central America shortly after her unlawful entry into the United States. Hurricane Mitch was reported by the National Oceanic and Atmospheric Administration as being the most deadly Atlantic hurricane since 1780.¹⁰⁸ The storm lasted from October 26 until November 4, 1998, and devastated major infrastructure in several Central American and Caribbean countries. Honduras reported 6,500 confirmed deaths and an estimated \$4 billion in damages.¹⁰⁹ On January 5, 1999, the attorney general for the U.S. Department of Justice declared that all Honduran nationals physically present in the United States (whether or not they had lawful immigration status) could remain in the United States under the Temporary Protected Status program. Temporary Protected

¹⁰⁷ "GNI per Capita, Atlas Method (1996–2000)," World Bank Data, accessed November 16, 2015, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD?page=3>.

¹⁰⁸ "Mitch: The Deadliest Atlantic Hurricane since 1780," National Climate Data Center, last modified January 23, 2009, <https://www.ncdc.noaa.gov/oa/reports/mitch/mitch.html>.

¹⁰⁹ "Mitch," National Climate Data Center.

Status occurs when the attorney general (now Secretary of Homeland Security) designates a particular country as incapable of receiving its own citizens due to extraordinary circumstances such as an armed conflict, epidemic, or environmental catastrophe. There is a specific registration period and a foreign citizen must be present in the United States (legally or illegally) at the time of designation in order to qualify.¹¹⁰

Temporary Protected Status was not designed to be a long-term or permanent immigration solution. It is a temporary remedy for foreign nationals who cannot return to their countries of origin because of an urgent humanitarian need. Central Americans who qualified for Temporary Protected Status in 1998–1999 are still renewing their temporary status today. Temporary Protected Status does not lead to any form of lawful permanent residence in the United States. Instead, it affords qualifying foreign nationals the right to work legally in the country by receiving an Employment Authorization Card. Temporary Protected Status also affords its recipients the ability to travel temporarily outside the United States, including but not limited to the ability to return to their country of origin.¹¹¹ There are approximately 61,000 Honduran nationals in the United States who have received Temporary Protected Status benefits since 1998.¹¹²

Honduras' continued need for Temporary Protected Status has been debated over the years. Both former Honduran Secretary of Foreign Affairs Mario Canahuati and former Honduran President Porfirio Lobo publicly sought continued U.S. support of the Temporary Protected Status program for Honduras.¹¹³ In the most recent announcement issued in the *Federal Register*, the U.S. government explained, “Over the past year, DHS and the Department of State (DOS) have continued to review conditions in Honduras. Based on this review and after consulting with DOS, the Secretary [of Homeland Security] has determined that an 18-month extension is warranted because the disruption

¹¹⁰ “Temporary Protected Status,” U.S. Citizenship and Immigration Services, accessed August 16, 2015, <http://www.uscis.gov/humanitarian/temporary-protected-status>.

¹¹¹ “Temporary Protected Status,” U.S. Citizenship and Immigration Services.

¹¹² Department of Homeland Security, “Extension of the Designation of Honduras for Temporary Protected Status,” *Federal Register* 79, No. 200 (2014): 62170–62176. <http://www.gpo.gov/fdsys/pkg/FR-2014-10-16/html/2014-24559.htm>.

¹¹³ “Honduras Asks U.S.A for Renewal of TPS,” La Prensa (Tegucigalpa, Honduras), February 22, 2010.

in living conditions in affected areas of Honduras resulting from the environmental disaster that prompted the January 5, 1999 designation persists.”¹¹⁴ No single country has been removed from the list of Temporary Protected Status recipients since 2009.¹¹⁵ Surprisingly, the number of Temporary Protected Status recipients has decreased over the years. Critics of the program’s long-term use suggest that the number of participants decreased mostly because recipients no longer believe that their lack of a lawful immigration status will be enforced.¹¹⁶

The fictional character, Jessica, renewed her Temporary Protected Status and work authorization in the United States for nearly 20 years. Her status is similar to that of any other temporary visitor, student, or foreign worker. Because Jessica cannot convert her “temporary” status to that of a Lawful Permanent Resident, she is unable to petition for any family members, including her son left in Honduras in 1997.

...

Jessica and Carolina talked at the kitchen table well into the night. Jessica sadly reported that, according to family in Honduras, her son had left weeks ago, presumably heading to the United States through Guatemala and Mexico with a coyote. Jessica said it was hard for her to sleep while thinking of what may have become of him. All she could do was wait and hope for the best. Carolina seized the moment and confided in her cousin that she and her husband had no intentions of returning to Honduras. Carolina explained how she had been threatened and how it was no longer safe for them there. As the words left her lips, Carolina felt suddenly embarrassed at the situation in which she found herself. A sadness crept into the pit of her stomach. Jessica looked deeply at Carolina’s worried face and said she completely understood. Jessica had seen all the horrible news from Honduras. Jessica immediately told Carolina they could stay with her for as long as they needed. Carolina looked around at the apartment and her children sleeping on the living room floor. Carolina hoped this cramped situation would be temporary. Jessica also gave Carolina a business card for a good immigration attorney

¹¹⁴Department of Homeland Security, “Extension of the Designation of Honduras,” 62170–62176.

¹¹⁵ David North, “Leaving TPS.”

¹¹⁶ Ibid.

she knew who helped her renew her Temporary Protected Status and employment cards on time. Carolina took the information from her cousin and promised to call in the morning.

Carolina started to get ready for bed and remembered how little she had packed for the trip. It would have raised too much suspicion with the inspectors at the airport. Their few things would have to be enough for now, but how long would their money last? How long would it take to find jobs? Carolina had strong English skills and a few business contacts in the United States, but would she even be allowed to work legally? She never thought she would be afraid to remain in her homeland. These complicated emotions weighed on her mind and on her heart as she said goodnight to her children in their new, unstable home.

The next day, two important phone calls happened. First, Carolina called the immigration attorney and set up an appointment to discuss her case in greater detail. Later that afternoon, a second call—this one for Jessica—came in. The call was from U.S. Customs and Border Protection. The officer stated that a young man by the name of Nestor was being detained, and Jessica’s phone number was listed for his closest relative in the United States.

“Yes,” said Jessica, her heart racing immediately and impatiently, “Nestor is my son.”

As the news truly hit her, Jessica began to shake and soon burst into sobs. She dropped the phone and fell to the floor.

Carolina heard the commotion from the other room and ran over to pick up the phone.

“Señora?” said a voice on the other end, “Señora?” the voice was more urgent.

“Yes, this is the family of Nestor Hidalgo,” said Carolina, helping still-sobbing Jessica onto a kitchen chair.

The children and Carlos soon overheard the commotion and ran into the kitchen inquisitively. Carolina gestured to Carlos to wait for one moment. She was struggling to understand the accent of the officer on the phone.

He spoke in Spanish, but it was not the Honduran Spanish Carolina was used to hearing. “Señora, your contact information will be added to this boy’s case file. Please state your full name and address for the record...”

Carolina provided as much information as she could with the help of Jessica, who was still trembling. The officer provided Nestor’s immigration case number, and Carolina wrote it down on a piece of paper. “Nestor Hidalgo will be transferred to a group home for minors run by the Office of Refugee Resettlement under the Department of Health and Human Services to await his deportation hearing, unless you folks want to come here to San Antonio and bond him out. Mr. Hidalgo is not allowed to receive personal phone calls while in detention. The Office of Refugee Resettlement will contact you in the morning to provide further information and explain how things will proceed from here.”

“Can we please talk to Nestor?” Carolina stammered.

“One moment, señora. Yes, we will put him on the phone.” Carolina nudged her cousin gently, who still sat unsteadily at the table, her head buried in her hands.

Jessica looked up, and Carolina whispered that it was Nestor, holding out the phone. “Hello? Hello, Mami...” the young man’s voice echoed, scared, from the other end of the line.

“I can’t...” Jessica mouthed, shaking her head softly but rapidly. “Hello, love. This is your Aunty Carolina. We are staying at your mom’s house here in Orlando. Look, your mom can’t talk right now, but don’t worry. We will fix everything. We’re just happy to know you are okay. Right now, the officers are going to take you somewhere safe, a place to stay for a little while. Don’t be scared. Do what the officers say. We will talk to them in the morning and figure things out. You will be okay.”

Carolina struggled to stay calm and keep from crying herself. She had no idea what fate awaited Nestor, but he was family after all. She could not imagine what he had endured to get all the way to the United States on foot.

“Aunty, I am so tired. I have no idea what is going on. The coyote just left us. He took all our money and left the ten of us in the desert. He said someone would pick us up, but no one ever came. We walked for days. We ran out of food. Water. Everything. Then Immigration caught us. Three managed to escape, but I was too tired to run. I’m so sorry. Tell my mother I am so, so sorry...” his voice trailed off.

“Don’t worry, Nestor,” said Carolina. “It’s only for a little while. You are safe there and we will talk to a lawyer tomorrow so your mom can come and see you. For now, get some rest.”

2. Options for Children

Nestor represents one of thousands of children who have attempted to enter the United States at the southern border after traveling by land through Central America and Mexico. Since 2012, the number of children detained at the southern border has risen significantly. According to U.S. Customs and Border Patrol, 67,339 unaccompanied children were encountered at the southern border of the United States between October 1, 2013, and September 30, 2014.¹¹⁷ Children are subject to the unilateral enforcement of most immigration laws, including the law that requires each foreign person seeking admission into the United States to present a valid passport and visa at a designated port of entry.¹¹⁸ Children who attempt to enter the country without valid travel documents are arrested and detained by U.S. Customs and Border Protection to await a removal hearing before an immigration judge. After arrest, if a child can establish that he or she has family in the United States, the child can be transferred to the Office of Refugee Resettlement, under the U.S. Department of Health and Human Services. The Office of Refugee Resettlement allows the family to house the child while he or she awaits the deportation

¹¹⁷ “Southwest Border Unaccompanied Alien Children,” Customs and Border Protection.

¹¹⁸ ‘Entering the U.S. - Documents Required for International Visitors,’ Customs and Border Protection, accessed December 28, 2015, [https://help.cbp.gov/app/answers/detail/a_id/572/~/entering-the-u.s---documents-required-for-foreign-nationals-\(international](https://help.cbp.gov/app/answers/detail/a_id/572/~/entering-the-u.s---documents-required-for-foreign-nationals-(international).

hearing.¹¹⁹ If a child is traveling with his or her parent and the entire family is detained, U.S. Customs and Border Protection will transfer the family to a family detention center. Due to the backlog of cases awaiting a hearing in immigration court, minors and families can be detained for months, or even years.¹²⁰

The U.S. departments of Homeland Security and Justice have recognized that the influx of unlawful immigrants is alarming. New public awareness campaigns feature posters in Spanish (such as the poster in Figure 1) that show the dangers of crossing the desert to an uncertain future in the United States: “I thought it would be easy for my son to get papers in the north, but it was not true. Our children are our future: We must protect them.”¹²¹

Figure 1. Border-Crossing Dangers Awareness Ad in Spanish



U.S. government public awareness campaigns warn potential immigrants about the dangers of crossing unlawfully through the southwest desert. Source: “Our Children Are the Future: Protect them,” Customs and Border Protection, accessed November 3, 2015, <http://www.cbp.gov/sites/default/files/u122/Dangers%20Poster%201.jpg>.

¹¹⁹ Christina Galvan, “Special Procedures for Noncitizen Minors in Removal Proceedings,” Nolo Law for All, accessed December 15, 2015, <http://www.nolo.com/legal-encyclopedia/special-procedures-noncitizen-minors-removal-proceedings.html>.

¹²⁰ “Immigration Court Backlog Tool,” TRAC Immigration, last modified January 2016, http://trac.syr.edu/phptools/immigration/court_backlog.

¹²¹ “Our Children are the Future: Protect them,” Customs and Border Protection, accessed November 3, 2015, <http://www.cbp.gov/sites/default/files/u122/Dangers%20Poster%201.jpg>.

Information directly from the U.S. Customs and Border Protection website further explains: “The message from the U.S. government on immigration is clear—if you cross illegally into the United States:

- You cannot earn a path to citizenship;
- You are not eligible for the Deferred Action for Childhood Arrivals, or [Deferred Action for Childhood Arrivals];
- You will not get papers that allow you to stay; and
- You are putting yourself, or your child, in danger.”¹²²

The public media campaign has good intentions. The journey through the desert is treacherous. No child should be subjected to these horrible conditions. But what happens after the children arrive in the United States? Is there truly no way for unaccompanied minors to “get papers?” Sending a strong public warning is important. If the Spanish-speaking public believes the message being conveyed is a separate issue. The question central to this second part of the fictional scenario is clear: are U.S. humanitarian immigration programs available to unaccompanied children who arrive at the southern border?

3. Special Immigrant Juveniles

There is an immigration law that specifically benefits children who have been abused, neglected, or abandoned by one or both parents as determined by any U.S. state court. The law was created in 1990 and later amended in 2008 under the Trafficking Victims Protection and Reauthorization Act.¹²³ Minors who qualify under this immigration category are categorized as “Special Immigrant Juveniles,” and this status leads to Lawful Permanent Residence and U.S. citizenship.¹²⁴ In addition to proving

¹²² “CBP Addresses Humanitarian Challenges of Unaccompanied Child Migrants,” Customs and Border Protection, accessed November 16, 2015, <http://www.cbp.gov/border-security/humanitarian-challenges>.

¹²³ “History of SIJ Status,” U.S. Citizenship and Immigration Services, last modified July 12, 2011, <http://www.uscis.gov/green-card/special-immigrant-juveniles/history-sij-status>.

¹²⁴ “Special Immigrant Juveniles (SIJ) Status,” U.S. Citizenship and Immigration Services, last modified June 15, 2015, <http://www.uscis.gov/green-card/special-immigrant-juveniles/special-immigrant-juveniles-sij-status>.

abuse, neglect, and/or abandonment, the state court in the United States must have jurisdiction to be able to “declare that you are a dependent of the court or to legally place you with a state agency, a private agency, or a private person and it is not in your best interests to return to your home country (or the country you last lived in).”¹²⁵ Minors apprehended at the southern border are either reunited with biological parents and processed for removal proceedings or are transferred as wards of the U.S. Department of Health and Human Services to reside with a friend or family member and later apply for Special Immigrant Juvenile status.¹²⁶ In this situation, there exists a protection “gap.”

Nestor would not qualify under the Special Immigrant Juvenile program because he seeks to be reunified with his biological mother in the United States. Nestor was not abused, neglected, or abandoned by his family. Minors who run away or leave their families in Honduras may qualify for Special Immigrant Juvenile status. These children are often determined by state courts to have been “abandoned” in the United States.

4. T and U Visas

There are two visas (T and U visas) designed for victims of human trafficking or victims of other certain crimes, respectively. In order to qualify for one of these visas, an applicant must prove a connection to criminal activity that occurred in the United States and/or extreme hardship if forced to return to their country of origin.¹²⁷ Although there is some leniency in the consideration of a minor’s application, an adult applicant for a T- or U-visa must be formally sponsored by a U.S. law enforcement agency.¹²⁸

¹²⁵ ‘Eligibility Status for SIJ,’ U.S. Citizenship and Immigration Services, last modified July 12, 2011, <http://www.uscis.gov/green-card/special-immigrant-juveniles/eligibility-sij-status/eligibility-status-sij>.

¹²⁶ Jesus Garcia, “Giving Shelter to Children on the Run,” Administration for Children and Families, last modified May 30, 2012, <http://www.acf.hhs.gov/blog/2012/05/giving-shelter-to-children-on-the-run>.

¹²⁷ ‘Resources for Victims of Human Trafficking and Other Crimes,’ U.S. Citizenship and Immigration Services, last modified August 25, 2014, <https://www.uscis.gov/tools/humanitarian-benefits-based-resources/resources-victims-human-trafficking-other-crimes>.

¹²⁸ ‘Information for Law Enforcement Agencies and Judges,’ U.S. Citizenship and Immigration Services, last modified December 3, 2015, <https://www.uscis.gov/tools/resources/information-law-enforcement-agencies-and-judges>.

Nestor may have been a victim of human trafficking during his journey between Honduras and Mexico, but the narrative indicates that Nestor was apprehended by Customs and Border Patrol officials immediately upon his entry into the country. The T and U visas are intended primarily to assist those individuals who were victimized as part of a criminal scheme that took place within the jurisdiction of United States.¹²⁹ Without the corroboration of local law enforcement, Nestor would have difficulty proving his case.

5. Deferred Action and Humanitarian Parole

Deferred action and humanitarian parole are potential options for all humanitarian migrants, minors or otherwise. Deferred action simply means that the United States authorizes a discretionary suspension of its authority to act (usually to deport someone). A formalized Deferred Action for Childhood Arrivals Program was introduced through an executive action by President Obama and formally announced by the Secretary of Homeland Security on June 15, 2012.¹³⁰ The program was intended to provide an organized and expeditious manner for a specific population (in this case minors who were brought to the United States at a young age and remain in an unlawful status) to access the existing deferred action law to request temporary relief from deportation and employment authorization. To qualify under the Deferred Action for Childhood Arrivals Program, immigrants must meet the following criteria:

1. Were under the age of 31 as of June 15, 2012
2. Came to the United States before reaching their 16th birthday
3. Have continuously resided in the United States since June 15, 2007, up to the present time
4. Were physically present in the United States on June 15, 2012, and at the time of making the request for consideration with United States Citizenship and Immigration Services (USCIS)

¹²⁹ “Victims of Human Trafficking and Other Crimes,” U.S. Citizenship and Immigration Services, last modified December 10, 2014, <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes>.

¹³⁰ “Consideration of Deferred Action for Childhood Arrivals,” U.S. Citizenship and Immigration Services, last modified January 4, 2016, <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>.

5. Had no lawful status on June 15, 2012
6. Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States
7. Have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety¹³¹

When the Obama Administration announced that the program would be expanded to include the parents of U.S. citizens and Lawful Permanent Residents, many believed that the program was overstepping the boundaries of the law and represented a type of massive amnesty.¹³² As a result, on December 3, 2014, 26 states filed an injunction against the federal government to stop President Obama's executive action meant to expand the program.¹³³ The injunction was upheld by a federal court of appeals on November 9, 2015.¹³⁴ This decision means that no further expansion can be pursued. In the Honduran fictional scenario, the Deferred Action for Childhood Arrivals Program would be eliminated from further consideration because Nestor just arrived in the United States and would therefore not meet the basic residence requirement.

Humanitarian parole can be found under Section 212(d)(5)(A) of the Immigration and Nationality Act. It is a rather vague section of law that allows a person to enter the United States for humanitarian reasons or for a significant public benefit.¹³⁵ The law for humanitarian parole is not specific and has purposely been left open for interpretation and discretion. There is one general humanitarian parole program that anyone can apply for, and there are different programs for different countries and populations that all exist based on interpretations of the same humanitarian parole law. Some of these programs

¹³¹ “Consideration of Deferred Action,” U.S. Citizenship and Immigration Services.

¹³² “DAPA and Expanded DACA Status,” CitizenPath, last modified January 19, 2016, <https://citizenpath.com/dapa-expanded-daca-status/>.

¹³³ State of Texas et al. vs. United States of America et al., No. B-14-254, 2014, United States District Court Southern District of Texas, “Memorandum Opinion and Order.”

¹³⁴ Appeal from the United States District Court of the Southern District of Texas, Case: 15–40238, 2015, United States Court of Appeals for the Fifth Circuit.

¹³⁵ Immigration and Nationality Act, § 212, 8 U.S.C. § 1182 (1952).

are discussed in greater detail in Chapter III, on Cuba. For now, this review focuses on the humanitarian parole program that can specifically assist immigrants from Honduras.

A parole is different from a visa. Parole classification does not carry the same rules, restrictions, or time limits as a visa. A parole allows someone with humanitarian need to be admitted into the United States for one year at a time, for an indefinite period of time, as long as the need exists.¹³⁶ Humanitarian parole also allows the recipient to be authorized for lawful employment in the United States. However, humanitarian parole is a temporary immigration category that does not lead to Lawful Permanent Residence or U.S. citizenship. Anyone can apply for general consideration of a humanitarian parole. It is not to be used to bypass other visa options, but if a person has no other options, a humanitarian parole can be issued at the discretion of the Department of Homeland Security, as long as the applicant demonstrates significant humanitarian need.¹³⁷

On December 1, 2014, the Department of Homeland Security's U.S. Citizenship and Immigration Services began accepting applications for a new program called the Central American Minors Refugee/Parole Program.¹³⁸ The program is based on the humanitarian parole law and focuses attention on providing humanitarian parole or, in some cases, refugee status, for qualifying Central American minors who are still present in Central America. The program is intended to provide an alternative path for parents and children seeking to make the dangerous journey from Central America to the United States. The application process begins when the minor's parent, who must be present in the United States, seeks to bring his or her child (under 21 years of age) to the United States. The parent can be in any of these types of immigration statuses: Permanent Resident Status, Temporary Protected Status, Parolee, Deferred Action, Deferred Enforced Departure, or Withholding of Removal.¹³⁹ On November 17, 2015, the first six

¹³⁶ "Humanitarian Parole," U.S. Citizenship and Immigration Services, last modified August 17, 2015, <http://www.uscis.gov/humanitarian/humanitarian-parole>.

¹³⁷ "Humanitarian Parole," U.S. Citizenship and Immigration Services.

¹³⁸ "In-Country Refugee/Parole Processing," U.S. Citizenship and Immigration Services.

¹³⁹ Ibid.

teenagers processed through this new program arrived in the United States.¹⁴⁰ The children entered the United States as refugees and count toward a total of 4,000 allocated refugee slots for Latin America and the Caribbean for fiscal year 2015.¹⁴¹ The U.S. Refugee Program is covered in greater detail in Chapter VI, on Syria. Up to this point, Honduras has had very little presence in the U.S. Refugee Program.

The fictional character Nestor is already in the United States. The Central American Minors Program is only intended to provide an immigration solution for minors in Central America, albeit only as a temporary solution. Jessica and Nestor will have to wait and see what the attorney recommends.

...

Carolina and Jessica waited for their names to be called in the attorney's waiting room. Carolina was surprised to see how busy the office was and how many Spanish-speakers she heard. Carolina had asked her husband to stay at home with the kids. They had still not told the children anything about their plans to stay. Carolina thought it would be best to explain everything once she, more or less, had a plan. They had two months before school was scheduled to begin. That should be plenty of time to get their permanent paperwork...

"Carolina Acosta and Jessica Hidalgo?" The receptionist called their names, and greeted them in perfect Spanish.

They walked to a conference room at the end of a hallway where the receptionist offered them water or coffee and explained that the attorney would be with them shortly. A few moments later, a middle-aged Hispanic gentleman appeared. He wore a nice suit and shook their hands warmly. He knew Jessica well, since she had filed her annual Temporary Protected Status paperwork through this office. Jessica introduced Carolina

¹⁴⁰ "First Six Teens Arrive in U.S. Legally under Central American Minors Program," Fox News Latino, November 17, 2015, <http://latino.foxnews.com/latino/politics/2015/11/17/first-six-teens-arrive-in-us-legally-under-central-american-minors-program/>.

¹⁴¹ "In-Country Refugee/Parole Program for Minors in El Salvador, Guatemala, and Honduras with Parents Lawfully Present in the United States Fact Sheet," Department of State Bureau of Population, Refugees, and Migration, last modified November 14, 2014, <http://www.state.gov/j/prm/releases/factsheets/2014/234067.htm>.

to the attorney, who explained he was an immigration attorney serving clients all over Orlando, as well as in North and Central Florida.

Carolina and Jessica explained that they were seeking assistance with two separate matters. Jessica first explained the situation with her son, Nestor, who was detained by Immigration in Texas. The attorney took some notes, including Nestor's immigration case number, and then explained that Jessica would likely be able to post a bond so that Nestor could be released into her custody. The attorney could also request to have Nestor's immigration hearing moved to the immigration court in Orlando. The attorney could not make any promises about Nestor staying in the United States, but he remained hopeful. Nestor would file a request for asylum and the immigration judge would be lenient, knowing that Jessica was a recipient of Temporary Protected Status for so many years.

Carolina then took her turn. She talked for a long time about their life in Honduras and their decision to move to the United States. The attorney explained that Carolina may be eligible to receive asylum—Carolina would apply as the principal asylum recipient for the entire family, as she was the one who suffered the direct criminal threats and had the position as a journalist. The attorney warned Carolina, however, that there were not many asylum requests approved for Honduran nationals, and it could take months to arrange a local interview at the Miami Asylum Office.¹⁴² The attorney explained that, if the case was approved after the interview, Carolina could apply for Lawful Permanent Residence. Even if the case was denied, Carolina would have another chance to plead her case before the immigration judge at the time of her removal hearing.

Both women left the office feeling relieved. Jessica made plans to travel to the detention facility outside San Antonio so that she could post bond for Nestor. Carolina would stay at the house and gather the documents requested by the attorney. Everything would fall into place. How hard could it be?

¹⁴² “Affirmative Asylum Statistics for January, February, March 2015,” U.S. Citizenship and Immigration Services, last modified May 8, 2015, <http://www.uscis.gov/sites/default/files/U.S.CIS/Outreach/PED-2015-01-03-NGO-Asylum-Stats.pdf>.

6. Asylum Programs

Carolina and her family entered the United States legally as visitors. Visitor visa entries allow for a maximum stay of six months. As visitors, Carolina and her family could legally remain in the country but they could not legally work or attend school. If the family could find an employment opportunity inside the United States, they could apply for a longer-term employment-based visa. But employment-based visa opportunities can be difficult to find and certain categories have lengthy waiting periods—a luxury Carolina does not have.¹⁴³ For Carolina and Nestor, the only humanitarian immigration program for which they can possibly qualify is the U.S. Asylum Program.

For most Hondurans seeking humanitarian protection in the United States, the only long-term option is to seek status through the U.S. Asylum Program. The U.S. Asylum Program mirrors the U.S. Refugee Program. In the United States, the difference between the refugee and asylum programs is the physical location of the migrant at the time of application. While refugees must be outside the United States, asylum seekers are already in the United States or at a port of entry.¹⁴⁴ Both programs operate under the same legal definition of a refugee housed in the Immigration and Nationality Act of 1952 to determine who is eligible:

The term “refugee” means any person who is outside any country of such person’s nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.¹⁴⁵

Both refugee and asylum statuses can be granted in the United States only when a person has been or may be persecuted because of race, religion, nationality, membership

¹⁴³ This study focuses only on humanitarian immigration programs available to the fictional immigrant family.

¹⁴⁴ Immigration and Nationality Act, § 101, 207, 208; 8 U.S.C. § 1101 (1952), 1157 (1980), 1158 (1980).

¹⁴⁵ Ibid., Section 101(a)(42).

in a particular social group, or political opinion. Prolonged periods of violence and environmental disasters have also historically triggered conditions for forced migration to the United States, but these migrants do not qualify as refugees in the United States. Carolina and Nestor represent victims of a violent and turbulent situation, but based on the legal criteria used to grant asylum, these types of events do not meet the definition of political asylum.¹⁴⁶ There was one humanitarian immigration program designed to assist Central Americans in the 1980s called the Nicaraguan Adjustment and Central American Relief Act (NACARA). NACARA was a special piece of legislation that was passed in 1997 to provide permanent relief to Central Americans who fled to the United States and filed for asylum during political unrest in Nicaragua and Central America in the 1980s.¹⁴⁷ The program only benefits nationals of Guatemala, El Salvador, and Nicaragua who were physically present in the United States in 1990.¹⁴⁸

Carolina is planning to make an affirmative asylum request, which means she will make the request herself through an application submitted to U.S. Citizenship and Immigration Services, as opposed to requesting asylum defensively in front of an immigration judge after being placed in deportation proceedings.¹⁴⁹ Current statistics show that in March of 2015, USCIS approved 42 percent of its adjudicated affirmative asylum cases.¹⁵⁰ Nestor, on the other hand, will be making an asylum request during his deportation hearing. Special provisions often allow for minors to submit an application to U.S. Citizenship and Immigration Services, as opposed to providing testimony in front of an immigration judge.¹⁵¹ For Carolina and Nestor, their futures are uncertain at best.

¹⁴⁶ Immigration and Nationality Act, § 101(a)(42).

¹⁴⁷ Nicaraguan Adjustment and Central American Relief Act (NACARA) 203, 8 C.F.R. § 1240 (1990).

¹⁴⁸ “Nicaraguan Adjustment and Central American Relief Act (NACARA) 203: Eligibility to Apply with U.S.CIS,” U.S. Citizenship and Immigration Services, last modified July 15, 2015, <http://www.uscis.gov/humanitarian/refugees-asylum/asylum/nicaraguan-adjustment-and-central-american-relief-act-nacara-203-eligibility-apply-uscis>.

¹⁴⁹ “The Affirmative Asylum Process,” U.S. Citizenship and Immigration Services, last modified February 4, 2015, <http://www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-process>.

¹⁵⁰ “Affirmative Asylum Statistics,” U.S. Citizenship and Immigration Services.

¹⁵¹ Galvan, “Special Procedures for Noncitizen Minors.”

D. SECURITY CONCERNS

Honduras' notoriety as one of the world's most violent and crime-ridden nations is a relatively recent phenomena. As illustrated in Table 2, murder rates in Honduras nearly doubled from the years 2000–2012.¹⁵² The 2012 murder rate for Honduras was 91 homicides per 100,000 inhabitants, whereas the 2012 murder rate for the United States was 4.7.¹⁵³

¹⁵² “Global Study on Homicide,” United Nations Office on Drugs and Crime, last modified April 13, 2015, <https://data.unodc.org>.

¹⁵³ “Global Study on Homicide,” United Nations.

Table 2. Murder Rates in Honduras

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Number	3176	3488	3623	4073	3639	3212	3118	3588	4455	5280	6236	7104	7172	6757
Rate	50.9	54.8	55.8	61.4	53.8	46.6	44.3	50.0	60.8	70.7	81.8	91.8	91.0	84.3

Adapted from “Global Study on Homicide,” United Nations Office on Drugs and Crime, last modified April 13, 2015, <https://data.unodc.org>.

The U.S. Department of State has had an ongoing “travel warning” for U.S. citizens in effect for Honduras since November 21, 2012.¹⁵⁶ The travel warning cites the fact that Honduras has maintained the world’s highest murder rates since 2010.¹⁵⁷ The Peace Corps pulled all its volunteers out of the country in September 2012.¹⁵⁸ More recently, on October 30, 2015, the U.S. Department of State issued the updated travel warning to “warn U.S. citizens that the level of crime and violence in Honduras remains critically high.”¹⁵⁹

In addition to widespread violence in Honduras, the country’s democratic processes are weak. Honduras has a long history of struggle between its independent military and the civilian-elected presidency. A political coup removed Honduran President Manuel Zelaya as recently as 2009. From 1932 to 1954, two dictators ran all of Honduran political affairs with relative stability. After a coup in 1956, a weak democracy was installed, but the military continued to intervene, remove elected leaders, and otherwise establish its own authority.¹⁶⁰ The 1980s were marked by major internal struggles and insurgencies throughout Central America. The regional wars forced Honduras to balance democratic ambitions against periods of military intervention, economic development, and U.S. involvement.

Honduras and the United States have maintained an allied relationship over the years. Honduran agriculture was exported to the United States beginning in the early 1900s with the United Fruit Company and Standard Fruit Company. The United States protected these assets and its relationship with Honduras by offering economic aid and security assistance.¹⁶¹ During the 1980s, the U.S.-Honduran relationship increased in

¹⁵⁶ “Travel Warning: Honduras,” Department of State Bureau of Diplomatic Security, last modified June 17, 2014, <https://www.osac.gov/Pages/ContentReportDetails.aspx?cid=14127>.

¹⁵⁷ “Honduras Travel Warning,” Department of State Bureau of Consular Affairs, last modified October 30, 2015, <http://travel.state.gov/content/passports/en/alertswarnings/honduras-travel-warning.html>.

¹⁵⁸ “Honduras,” Peace Corps, last modified November 16, 2015, <http://www.peacecorps.gov/volunteer/learn/wheretc/centralamerica/honduras>.

¹⁵⁹ “Honduras Travel Warning,” Department of State.

¹⁶⁰ Tim Merrill, *Honduras: A Country Study* (Washington, DC: Government Printing Office, 1995), xxv–xxviii.

¹⁶¹ Merrill, *Honduras*, xxv–xxviii.

importance due to the U.S. support of regional opposition fighting against the leftist government tendencies in Nicaragua, El Salvador, and Guatemala. To this day, the United States maintains a large military presence at the Soto Cano Air Force Base in Comayagua, Honduras.¹⁶² Honduran nationalists believe the nation's continued dependence on the United States is degrading to its own sovereignty.¹⁶³

The United States' diplomatic position in Latin America was challenged in Honduras during the 2009 military coup. The Obama administration and Secretary of State Hillary Clinton were accused of not actively defending the democracy, despite international demands from the UN and the Organization of American States to reinstate the ousted President Manuel Zelaya.¹⁶⁴ Hillary Clinton admitted in her memoir, *Hard Choices*, that the United States did not focus on reinstating President Zelaya after he was forcibly removed by the Honduran military.¹⁶⁵ At the time, the United States determined that the best solution was to seek international support of an immediate election to replace Zelaya.¹⁶⁶ The election was boycotted by some Honduran citizens.

Many questioned the selection of the new president and the United States' role in Honduran political affairs.¹⁶⁷ The newly elected president, Porfirio Lobo, remained the Honduran president from 2010–2014, though confidence in the Honduran democratic system suffered.¹⁶⁸ A lack of strong democracy directly correlates to the number of citizens who choose to immigrate to another country. The weak democracy also suggests the government is unable to provide basic needs and stability for its people.¹⁶⁹

¹⁶² “Joint Task Force-Bravo: Soto Cano Air Base, Honduras,” United States Southern Command, accessed December 21, 2015, <http://www.jtfb.southcom.mil/main/welcome.asp>.

¹⁶³ Merrill, *Honduras*, xxv–xxviii.

¹⁶⁴ Michael Shifter, “Obama’s Honduras Problem,” *Foreign Affairs*, August 24, 2009, <https://www.foreignaffairs.com/articles/americas/2009-08-24/obamas-honduras-problem>.

¹⁶⁵ Hillary Clinton, *Hard Choices* (New York: Simon & Schuster, 2014), 222–227.

¹⁶⁶ Mark Weisbrot, “Hard Choices: Hillary Clinton Admits Role in Honduran Coup Aftermath,” Al Jazeera, September 29, 2014.

¹⁶⁷ Dana Frank, “Honduras: Which Side Is the U.S. on?,” *Nation*, May 22, 2012.

¹⁶⁸ Roberto Ortiz de Zarate, “Porfirio Lobo Sosa,” Barcelona Centre for International Affairs, last modified September 3, 2015, http://www.cidob.org/biografias_lideres_politicos/america_central_y_caribe/honduras/porfirio_lobo_sosa.

¹⁶⁹ Hiskey, Montalvo, and Orcés, “Democracy, Governance, and Emigration Intentions.”

Former U.S. Ambassador to Honduras James Creagan blames the violence and corruption in Honduras on the prolific drug trade, stating, “The unfettered violence of today’s Honduras, and its neighbors, is caused by drugs, gangs and corruption. It is a choice of bribes or bullets, all driven by the market for coca leaf products.”¹⁷⁰ Not even the former president, Porfirio Lobos, can escape the drug cartels. The former president’s son was arrested by the Drug Enforcement Agency in Haiti in 2015 on drug trafficking charges.¹⁷¹ The UN Office on Drugs and Crime found that, beginning in 2006, cocaine shipments have been trafficked more often through Central America than Mexico due to Mexico’s improved national security strategy.¹⁷² However, the UN Office on Drugs and Crime also found that the violence in the areas of Honduras, Guatemala, and El Salvador was proliferated by territorial gangs and was not the direct result of the drug trafficking activity. Instead, drug trafficking, along with many other types of crimes, provides financial incentive for gang control of certain areas.¹⁷³

The research conducted by the UN suggests that the rise in gang activity in Honduras is the result of weak institutions and a lack of law and order.¹⁷⁴ There are estimated to be between 12,000 and 36,000 gang members in Honduras.¹⁷⁵ There are 13,500 police officers in Honduras, compared to 21,000 in El Salvador and 24,000 in Guatemala.¹⁷⁶ Gangs typically attract members between the ages of 12 and 24.¹⁷⁷ The

¹⁷⁰ “U.S. Policy on Honduras: Views of Two Diplomats,” *New York Times*, February 5, 2012.

¹⁷¹ Benjamin Weiser, “Honduras: Ex-President’s Son Arrested,” *New York Times*, May 22, 2015, <http://www.nytimes.com/>.

¹⁷² “Transnational Organized Crime in Central America and the Caribbean,” United Nations Office on Drugs and Crime, last modified September 2012, https://www.unodc.org/documents/data-and-analysis/Studies/TOC_Central_America_and_the_Caribbean_english.pdf.

¹⁷³ “Transnational Organized Crime,” United Nations Office on Drugs and Crime.

¹⁷⁴ Ibid.

¹⁷⁵ Clare Ribando Seelke, *Gangs in Central America* (CRS Report No. RL34112) (Washington, DC: Congressional Research Service, February 20, 2014), 3.

¹⁷⁶ “Honduran Police Force is the Weakest in Central America,” *Heraldo* (Tegucigalpa, Honduras), April 7, 2014.

¹⁷⁷ Seelke, *Gangs in Central America*, 2.

vast majority of homicide victims in Central America are between the ages of 15 and 29.¹⁷⁸

E. CONCLUSION

Whether migrants are fleeing gang violence, political instability, or both, thousands from Central America are drawn to the possibility of a better life in the United States. The United States did not have a clear response plan for this migration crisis and instead sought emergency funding, makeshift family detention centers, and ad-hoc legislation.¹⁷⁹ U.S. politicians argued about whether to deport the minors or allow them to stay. Many point to Obama's Deferred Action for Childhood Arrivals program as the cause of the influx.¹⁸⁰ In October of 2014, a bipartisan Congressional delegation visited Honduras and admitted that multiple factors are causing the influx of migrants.¹⁸¹

The 2016 budget proves that the humanitarian crisis in Central America is of great concern to the U.S. government. An allocation of \$1 billion was made "to support a long-term, comprehensive strategy for Central America to minimize the pressures of illegal immigration on the United States."¹⁸² It is unclear if this funding will have clear directives to help stem the flow of unlawful minor immigrants to the southern border of the United States. For now, political cartoons (such as the cartoon seen in Figure 2) force readers to question if the United States has a clear plan of action to end this humanitarian crisis.

¹⁷⁸ "Global Study on Homicide: 2013," United Nations Office on Drugs and Crime, last modified March 2014, https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

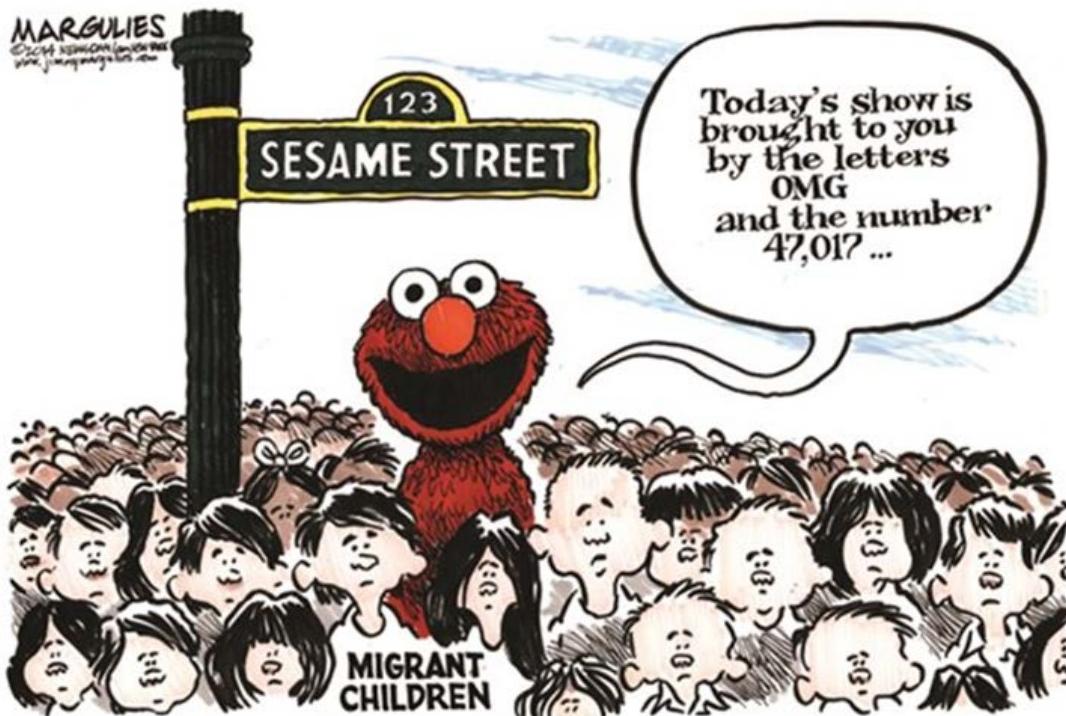
¹⁷⁹ Mary Turck, "Central American Refugees Return with Spring, but the Failed No-Release U.S. Immigration Policy Is not Prepared to Handle Them," Al Jazeera America, April 21, 2015.

¹⁸⁰ Elise Foley and Roque Planas, "Ron Johnson: Deporting Kids to Honduras is OK Because It's 'A Beautiful Country,'" Huffington Post, last modified November 9, 2015, http://www.huffingtonpost.com/entry/ron-johnson-honduras-deportation_5640dedce4b0b24aee4b1d5c.

¹⁸¹ "Bipartisan Congressional Delegation Returns from Honduras," Reid Ribble, November 2, 2015, <https://ribble.house.gov/press-release/bipartisan-congressional-delegation-returns-central-america>.

¹⁸² Office of Management and Budget, *Fiscal Year 2016 Budget of the U.S. Government* (Washington, DC: Government Printing Office, 2015), 58–59.

Figure 2. Political Cartoon Questioning Plan to Address Central American Minors Arriving at the Southern Border



Source: Jimmy Margulies, "Migrant Children," June 17, 2014, <http://www.politicalcartoons.com/cartoon/4bb41326-ef33-45df-a76d-b12f77dc890.html>.

Honduran refugees are most often victims of gang violence and a government system that is unable to protect them. Additionally, Temporary Protected Status for Honduras has been in effect for environmental refugees who sought shelter from the effects of Hurricane Mitch in the late 1990s. Refugees of violence and environmental catastrophes do not qualify for consideration as refugees in the United States. Furthermore, there is no existing provision to allow those holding Temporary Protected Status to ever become Lawful Permanent Residents. The United States must develop a strategy to end long-term protracted refugees.

A high number of refugees from Central America have traveled to and remain in the United States seeking safety. Drug cartels are more often stopping in Central America than in Mexico, with local gangs competing for control of the territory. Gangs in Honduras are responsible for the majority of violent acts and homicides to maintain their control over the drug routes. The democratic systems in Honduras are weak, which

furtherns Honduran citizens' desire to migrate. The United States has committed \$1 billion in economic aid for Central America in 2016, but this spending plan must focus on the sources of local government instability and lawlessness.

Large backlogs in the asylum and immigration court systems mean that Honduran immigrants can remain in an uncertain protracted migratory situation for months or even years. Prospects for Lawful Permanent Residence based on refugee claims of violence are not good, but the lengthy delays also provide false hopes. Unaccompanied minors can apply to become Lawful Permanent Residents under the Special Immigrant Juvenile program, provided they do not have parents in the United States, or those parents are unknown to the U.S. government. Minors who enter the country seeking to reunite with their parents do not qualify for consideration under the Special Immigrant Juvenile program. Minors who remain in Honduras, and who have parents in the United States, may be eligible for consideration under a new program called the Central American Minors Relief program, but this program has only successfully processed six minors since its inception in 2014. The U.S. government's public warning against the dangers of unlawful migration for Central American minors does not match the reality that some minors can remain in the country and find permanent protection. There exists a tremendous disconnect between the public message and the reality of the legal circumstances for Honduran refugees.

III. CASE STUDY: CUBA

A. COUNTRY CONTEXT

Cuba is a unique historical example of U.S. humanitarian immigration solutions. The only communist dictatorship in the Western Hemisphere, Cuba is located 90 miles away from the southern tip of Florida; it holds a strategic position relative to the United States—both geographically and politically.¹⁸³ The U.S. Refugee Program is only allowed to accept a limited number of refugees based on allocated funds approved each year by Congress. In 2013, the United States accepted a total of 69,909 refugees.¹⁸⁴ In 2014 and 2015, the United States committed to accepting 70,000 refugees.¹⁸⁵ The only exception to the total number of refugees accepted by the United States is for Cuban nationals. Currently, all Cuban nationals who arrive in the United States (legally or illegally) receive full financial assistance, Lawful Permanent Residence for themselves and family members, and a unique path to U.S. citizenship under special humanitarian legislation written to address the mass exodus of Cuban nationals in the 1950s and 1960s. The law is commonly known as the Cuban Adjustment Act and is responsible for the notorious “wet foot/dry foot” immigration policy, under which Cubans intercepted by U.S. authorities at sea are returned to Cuba, but Cubans who make it to dry land in the United States are allowed to remain permanently (see Figure 3).¹⁸⁶

¹⁸³ “Cuba,” Central Intelligence Agency, accessed July 22, 2015, <https://www.cia.gov/library/publications/the-world-factbook/geos/cu.html>.

¹⁸⁴ Daniel Martin and James E. Yankay, “Refugees and Asylees 2013 Annual Flow Report,” Department of Homeland Security, last modified August 2014, https://www.dhs.gov/sites/default/files/publications/ois_rfa_fr_2013.pdf.

¹⁸⁵ “Refugee Admission Statistics,” Department of State.

¹⁸⁶ “Cuban Adjustment Act,” Pub. L. No. 89-732, 80 Stat. 1161 (1966).

Figure 3. Cuban Raft Intercepted at Sea



Twelve Cuban migrants intercepted at sea onboard a 1951 Chevrolet truck. All Cubans intercepted at sea can be returned to Cuba under the “wet foot/dry foot” policy. Source: “12 Migrant in a 1951 Chevy Truck,” U.S. Coast Guard, June 2003, <http://www.uscg.mil/hq/cg531/AMIO/cupic.asp>.

The Cuban Adjustment Act allows Cuban nationals to enter the United States under their own immigration category. They do not need to prove that they meet the definition of a refugee. There are no numerical limitations imposed by Congress, and Cuban nationals can enter the country legally or illegally. The Cuban Adjustment Act waives standard immigration requirements applied to all refugees who desire entry into the United States through humanitarian immigration programs. President Obama’s announcement that the United States would begin to normalize relations with communist Cuba—along with the establishment of a new U.S. Embassy in Cuba—presents complicated issues for this program in particular. Because of the Cuban Adjustment Act,

the U.S. Refugee Program, and an array of different humanitarian immigration programs, U.S. immigration rules are unique when it comes to Cuban nationals.¹⁸⁷

Current U.S. humanitarian immigration policy for Cuba dates back to the 1950s. During this time, the United States had one central focus of its foreign policy strategy, and that was to fight against the global spread of communism.¹⁸⁸ The National Security Council Memorandum 68 provides a glimpse at the U.S. foreign policy after World War II that actually “embraced ‘two subsidiary policies.’ One was to foster, ‘a world environment in which the American system can survive and flourish,’ and the other was containment of the Soviet Union.”¹⁸⁹ U.S. foreign policy was focused on providing a necessary foundation for growth and prosperity under a capitalist system.¹⁹⁰

Cuba had been very connected to the United States since the American victory over the Spanish in the Spanish American War.¹⁹¹ The United States assumed a dominant role in Cuban affairs after securing Cuban freedom from Spain on December 10, 1898.¹⁹² The United States had already invested heavily in the Cuban sugar trade, and benefited from this close association.¹⁹³ This tight relationship continued between the two nations until 1959 when the Cuban Revolution brought Fidel Castro to power.¹⁹⁴ Fidel Castro and his revolutionary form of government represented a political ideology that was in direct conflict with American control and capitalism.¹⁹⁵ The new Cuban government seized approximately \$1 billion of U.S.-held industries in Cuba and converted them into

¹⁸⁷ “Green Card for a Cuban Native or Citizen,” U.S. Citizenship and Immigration Services, accessed July 22, 2015, <http://www.uscis.gov/green-card/other-ways-get-green-card/green-card-cuban-native-or-citizen>.

¹⁸⁸ A. A. Fursenko and Timothy J. Naftali, *One Hell of a Gamble: Khrushchev, Castro, and Kennedy, 1958–1964* (New York: W.W. Norton, 1997), 82.

¹⁸⁹ William I. Robinson, “Pushing Polyarchy: the U.S.-Cuba Case and the Third World,” *Third World Quarterly* 16, no. 4 (December 1995): 645–650.

¹⁹⁰ Robinson, “Pushing Polyarchy,” 645–650.

¹⁹¹ “The World of 1898: The Spanish-American War,” Library of Congress, accessed November 20, 2014, <http://www.loc.gov/rr/hispanic/1898/intro.html>.

¹⁹² “The World of 1898,” Library of Congress.

¹⁹³ Ibid.

¹⁹⁴ Fursenko and Naftali, *One Hell of a Gamble*, x.

¹⁹⁵ Alan Luxenberg, “Did Eisenhower Push Castro into the Arms of the Soviets?,” *Journal of Interamerican Studies and World Affairs* 30, no. 1 (1988): 38, <http://www.jstor.org/stable/165789>.

state property.¹⁹⁶ President Eisenhower responded in the spring of 1960 with a U.S. embargo on major exports to Cuba, including sugar, oil, and guns.¹⁹⁷ On October 19, 1960, Eisenhower prohibited all U.S. exports to Cuba.¹⁹⁸ With the escalation of tensions between the U.S. and Cuban governments, Fidel Castro forged an even stronger alliance with the Soviet Union, which agreed to provide substantial military support to help Cuba's communist revolution.¹⁹⁹ It remains widely debated whether Fidel Castro always wanted a communist government in Cuba, or was pushed toward this decision in response to U.S. aggression.²⁰⁰ President Eisenhower formally severed all diplomatic ties with Cuba on January 3, 1961, just two weeks before John F. Kennedy took over as President of the United States.²⁰¹

Understanding the gravity of the first communist nation in the Americas, new U.S. President John F. Kennedy took immediate action to oust Fidel Castro and his communist regime in Cuba.²⁰² A clandestine CIA operation trained recent Cuban immigrants to overthrow the Castro regime.²⁰³ Kennedy was hesitant to use U.S. military troops or air strikes to openly support the effort, and the Bay of Pigs operation was easily defeated by the Cuban military in April of 1961.²⁰⁴ Kennedy's failure during the Bay of Pigs was viewed by Cuban exiles in the United States as a complete fiasco and a betrayal by the U.S. Democratic Party that would be remembered for years to come.²⁰⁵ On September 4, 1961, President Kennedy signed the Foreign Assistance Act of 1961 (Public Law 87–195), which contained a specific prohibition against providing any assistance to

¹⁹⁶ ‘The Bay of Pigs Invasion and its Aftermath,’ Department of State Office of the Historian, last modified October 31, 2013, <https://history.state.gov>.

¹⁹⁷ Michael H. Erisman, *Cuba's Foreign Relations in a Post-Soviet World* (Gainesville: University of Florida Press, 2000), 58–60.

¹⁹⁸ Erisman, *Cuba's Foreign Relations*, 58–60.

¹⁹⁹ Furstenko and Naftali, *One Hell of a Gamble*, 99.

²⁰⁰ Luxenberg, ‘Did Eisenhower Push Castro,’ 38–40.

²⁰¹ Richard Reeves, *President Kennedy: Profile of Power* (New York: Touchstone, 1993), 31–40.

²⁰² Furstenko and Naftali, *One Hell of a Gamble*, 82–83.

²⁰³ Ibid.

²⁰⁴ Ibid., 94–100.

²⁰⁵ Maria Cristina Garcia, *Havana U.S.A: Cuban Exiles and Cuban Americans in South Florida, 1959–1994* (Los Angeles: University of California Press, 1996), 31–32.

Cuba and a ban on all trade with Cuba until it adopted a democratically elected government.²⁰⁶

In the meantime, Cuba continued to receive military support from the Soviet Union, and U.S. intelligence reports showed that the Cubans were building structures to support nuclear weapons.²⁰⁷ The U.S. government worried of a possible aggressive Soviet military action against the United States by leveraging the strategic location and close proximity of the Caribbean island nation. This threat would culminate in the Cuban Missile Crisis. As Harvard researcher and author Graham Allison explained, “For thirteen days of October 1962, there was a higher probability that more human lives would end suddenly than ever before in history.”²⁰⁸ The United States had never been so close to nuclear attack. After ruling out air strikes, President Kennedy sent a U.S. Navy fleet to “quarantine” Cuba. Through a careful twist of diplomatic wording, the quarantine was not considered an international act of war.²⁰⁹ This strategic decision ensured that the United States did not officially instigate war with Cuba, but prevented the Soviet nuclear weapons from being transported to Cuba by sea. The U.S. Navy ensured that the quarantine worked and the nuclear threat never escalated.²¹⁰ The Cuban Missile Crisis was a major success for the United States, and an embarrassment for the Soviet Union and Cuba.

In the wake of the Cuban Revolution and Cuban Missile Crisis, thousands of Cuban nationals escaped to the open waters of the Caribbean Sea and set sail to find political refuge and freedom in the United States (see Figure 4 for a map of Cuba; the United States is represented by the southern tip of Florida).²¹¹ Cubans immediately began to overwhelm the existing U.S. immigration system and, in 1966, Congress passed an

²⁰⁶ Foreign Assistance Act of 1961, 22 U.S.C. § 2370 (1961).

²⁰⁷ Curtis A. Utz, “Cordon of Steel: The U.S. Navy and the Cuban Missile Crisis,” in *The U.S. Navy in the Modern World Series No. 1* (Washington, DC: Department of the Navy, 1993), 9–12.

²⁰⁸ Graham T. Allison, “Conceptual Models and the Cuban Missile Crisis,” *American Political Science Review* 63, no. 3 (September 1969): 689.

²⁰⁹ Utz, “Cordon of Steel, 24.

²¹⁰ Ibid., 36–47.

²¹¹ Garcia, *Havana U.S.A.*, 37–42.

unprecedented policy to help Cuban nationals permanently escape the communist regime. The law that was passed became known as the Cuban Adjustment Act.²¹²

Figure 4. Map of Cuba



Source: "Administrative Map of Cuba," Nations Online, accessed November 16, 2015, <http://www.nationsonline.org/oneworld/map/cuba-administrative-map.htm>.

B. FICTIONAL SCENARIO

The phone rang. Manuel got up from the couch to answer it in the kitchen. His brother, Juan, called every Thursday night around the same time.

"Alo, buenas?" Manuel's standard telephone greeting.

"Hermano! You're not going to believe this..." It was his brother, right on cue.

Manuel let out a long exhale, "Now what?" he thought. Juan was always excited about something, but it was usually for nothing.

²¹² Garcia, *Havana U.S.A.*, 42.

It had been more than 10 years since Juan lived with them in Havana, and Manuel could count on one hand the number of times Juan had ever sent money to their mother. Manuel expected that Juan would have visited at some point, like so many of the Cubans who lived in Miami, but Juan never returned to the island. Juan said he didn't have enough money, but Manuel knew it was an excuse. Even still, their mother never stopped asking when Juan would return.

Manuel lived in a small, two-bedroom apartment with his wife, two children, and his mother. The apartment was on the second floor above a basic food store, four blocks down from the popular seaside Malecon boulevard in Havana. It was a great location and they had lived there ever since Manuel could remember. Manuel, Juan, and their sister Cristina were the only siblings. Juan and Cristina were both in Miami now, but Manuel had stayed behind, mostly to take care of their mother. Mami said she would never leave her island, revolution or no. Fidel may have taken her finca (farm), but he could never take her homeland. And so Manuel stayed. Manuel had taught high school for twenty years now. It was a good job and teachers received help from their students' families during the food shortages.²¹³ He could not complain.

“Cuéntame, hermano. What is the news?” Manuel tried to sound excited, but he wasn’t. Juan continued, “Man, you are not going to believe this, Manuel, but you won! You won el bombo (the lottery)! ”²¹⁴

“What are you talking about? Is this some kind of joke?”

“Nah, man. This is no joke! I told you last fall I was applying for you and Mary Carmen and the kids. Remember I sent you all those forms to sign? Well, I have been checking the status of the application on the computer. I just looked this evening and sure enough, you won! You can get visas and bring the whole family to Miami!”

The information began to sink in. Manuel remembered the paperwork—it had arrived in a fancy shipment envelope all the way from Miami. Juan had even sent money

²¹³ “Hungry for Change,” *Economist*, May 25, 2010, <http://www.economist.com/node/15769891>.

²¹⁴ Augusto Cesar San Martin, “International Lottery Open to Immigrate to the United States,” Cubanet, last modified October 3, 2015, <https://www.cubanet.org/noticias/abierto-bombo-internacional-para-emigrar-a-estados-unidos/>.

for the return postage. Manuel had figured it was just another of Juan's crazy ideas that wouldn't go anywhere.

"I...I don't know what to say. Are you sure?"

"Of course I am sure. Now you have to go to the American Embassy and get your visas.²¹⁵ I will send you all the papers you need to show them. You have to hurry because there's a time limit."²¹⁶

Manuel was not so sure. He did not trust the Americans, and he didn't trust Juan's judgment, or his information. Besides, what about their mother? He couldn't just leave her behind on the island. She was getting older now, and he often had to barter and trade just to get the medication she needed for her arthritis.

It was almost as though Juan read his mind.

"Hey, don't worry about Mom, either," he said, softer. "There's a new way I can apply for her to come directly to Miami. I'll take care of everything."

It was hard for Manuel not to doubt his brother. Juan had defected from Cuba and hadn't returned to see them in over ten years. Juan had forgotten how difficult it was to live on the island. The apartment needed constant repairs, but Manuel could never find all the materials he needed. If anyone got sick, the medical care was free, but the hospitals never had enough supplies. Manuel had grown tired of the food shortages, the government controlled radio and television, and the watchful police. He knew he was not free. The children received a good education, but there was little future on the island. Manuel and Mary Carmen had talked before about wanting to leave, but Manuel could not leave their mother behind. Their mother would not leave Cuba without a fight, and Juan would never understand her loyalty—or anyone else's—to the island.

²¹⁵ Note: an official U.S. Embassy was not re-established in Havana, Cuba until August 14, 2015. From 1961 until 2015, the United States operated a U.S. Interests Section inside a land area controlled by the Government of Switzerland. Patrick Oppmann, "Raising of Old Glory in Havana Expected to Help Heal Old Wounds," CNN, August 14, 2015; "Facts on Re-Establishment of Diplomatic Relations with Cuba," Department of State, last modified July 6, 2015, <http://ipdigital.usembassy.gov/st/english/texttrans/2015/07/20150706316588.html#axzz3f8iehRdd>.

²¹⁶ "Diversity Lottery Visa Program," U.S. Embassy Havana, accessed November 17, 2015, http://havana.usembassy.gov/diversity_lottery_visa_program.html.

“Wow,” Manuel said after a pause. “Well...let me discuss things with Mary Carmen. I will put Mom on the phone so you can say hi, but don’t say anything to her yet about Miami. Call us again over the weekend.”

C. IMMIGRATION OPTIONS

1. Diversity Lottery Visa Program, *El Bombo*

Cubans can apply for U.S. visa consideration under the Department of State’s Diversity Visa Lottery Program. In Cuba, this program is commonly known as *el bombo*.²¹⁷ The Diversity Visa Lottery Program is meant to encourage immigration from historically under-represented countries.²¹⁸ Countries that already experience strong trends of immigration to the United States do not qualify for consideration in the Diversity Lottery Visa Program. The program’s 2017 instructions show that foreign nationals from the following countries are ineligible to apply:

Bangladesh, Brazil, Canada, China (mainland-born), Colombia, Dominican Republic, Ecuador, El Salvador, Haiti, India, Jamaica, Mexico, Nigeria, Pakistan, Peru, Philippines, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam. Persons born in Hong Kong SAR, Macau SAR, and Taiwan are eligible.²¹⁹

These countries are excluded because each already receives more than 50,000 immigrant visas in a year. Foreign nationals from all other countries are eligible to apply. The total annual diversity visa limit for all countries has been 50,000 annually since 1999, but a different numbers of visas are allocated for each of the different countries.²²⁰

In 2015, the automated *bombo* system ultimately allocated 1,480 diversity lottery visas to Cuban nationals. To compare Cuba with the other countries in this research:

²¹⁷ Ted Henken, “Balseros, Boteros, and el Bombo: Post-1994 Cuban Immigration to the United States and the Persistence of Special Treatment,” *Latino Studies*, 2005, 401–402.

²¹⁸ Immigration and Nationality Act, § 203, 8 U.S.C. § 1153 (Supp. 2011).

²¹⁹ “Instructions for the 2017 Diversity Immigrant Visa Program,” Department of State Bureau of Consular Affairs, accessed December 7, 2015, [http://travel.state.gov/content/dam/visas/Diversity-Visa/DV-Instructions-Translations/DV-2017%20Instructions%20and%20FAQs.pdf](http://travel.state.gov/content/dam/visas/Diversity-Visa/DV-Instructions-Translations/DV-2017-Instructions-Translations-DV-2017%20Instructions%20and%20FAQs.pdf).

²²⁰ “Instructions for the 2017 Diversity Immigrant Visa Program,” Department of State.

Hondurans received 165 lottery visas and Syrians received 598 the same year.²²¹ A total of 14,418,063 lottery entries were received for the program, with the following number of entries received for the countries of interest:

- Honduras: FY 15 = 9,610
- Cuba: FY 15 = 112,998
- Syria: FY 15 = 50,659²²²

The program operates as a joint responsibility between the U.S. Department of State and the U.S. Department of Homeland Security. To enter the Diversity Visa Lottery Program, applicants must register within a certain time period, be a native from an eligible country (or qualify through a spouse or parents), and meet the education requirement of a high school diploma (or equivalent) or the work experience requirement of two years in a job category that requires specific training as defined by the U.S. Department of Labor.²²³

...

Mary Carmen and Manuel went for a walk after dinner out on El Malecon. These walks happened whenever there was something important to discuss that warranted privacy. It was never a great idea to openly discuss plans to leave Cuba, even if there was a visa waiting at the embassy. Mary Carmen was more excited than Manuel, but they were both apprehensive. All of Mary Carmen's family was still in Cuba, and there was the sensitive matter of Manuel's mother to consider. His mother had been disenchanted with the United States ever since Juan's decision to live there permanently. Juan had made it through medical school and become a doctor in Cuba. Their mother was so proud to say they had a doctor in the family. Juan was personally selected by the Cuban government to participate in the Cuban foreign medical brigade. This was a great honor

²²¹ “DV 2015 Selected Entrants,” Department of State Bureau of Consular Affairs, last modified November 13, 2015, <http://travel.state.gov/content/visas/en/immigrate/diversity-visa/dv-2015-selected-entrants.html>.

²²² “Diversity Visa Program, DV 2013–2015: Number of Entries Received during Each Online Registration Period by Country of Chargeability,” Department of State, last modified November 13, 2015, <http://travel.state.gov/content/dam/visas/Diversity-Visa/DVStatistics/DVApplicantEntrantsbyCountry%202013-2015.pdf>.

²²³ “U.S. Diversity Immigrant Visa Program Tutorial,” YouTube video, posted by “U.S. Department of State,” October 1, 2015, <https://www.youtube.com/watch?v=tOQlh2d2EbQ&feature=youtu.be>.

and it meant that Juan was given a passport and exit permission to leave Cuba. Juan travelled to Bolivia for two years, providing medical assistance to the poor.

Manuel had felt something was wrong the day Juan left. Their goodbyes were a little longer than needed. Juan got incredibly emotional, but Manuel assumed it was the good Cuban rum and cigars they had been enjoying at the going away party. That was 2002. That was the last time they had seen Juan. Manuel had no idea how he had gotten to Miami, but three years later, Juan called Manuel from the United States and said he was not coming back to Cuba. He had found a way out.

2. Cuban Medical Professional Parole Program

Juan was able to take advantage of a unique humanitarian parole program offered exclusively to Cuban medical doctors. As discussed in the previous chapter on Honduras, Section 212(d)(5)(A) of the Immigration and Nationality Act grants humanitarian parole authority to authorize anyone from any country to enter the United States for humanitarian reasons or for a significant public benefit.²²⁴ The U.S. government organized two programs specifically for Cuba under this parole authority: the Cuban Medical Professional Parole Program and the Cuban Family Reunification Program. These programs are two organized responses of U.S. immigration policy that create specific ways to aid Cuban applicants who want to come to the United States. The Cuban Medical Professional Parole Program began on August 11, 2006, when the departments of Homeland Security and State announced that they would provide Cuban medical personnel working or studying in a third country an avenue to legally enter the United States.²²⁵

Cuba has a robust state-sponsored medical program and routinely sends medical brigades to assist in other countries, as seen in the Cuban response to the Ebola outbreak in West Africa.²²⁶ The Cuban Medical Professional Parole program allows well-trained

²²⁴ Immigration and Nationality Act, § 212, 8 U.S.C. § 1182 (1952).

²²⁵ “Cuban Medical Professional Parole Program,” Department of State, January 26, 2009, <http://www.state.gov/p/wha/rls/fs/2009/115414.htm>.

²²⁶ Adam Taylor, “In the Medical Response to Ebola, Cuba Is Punching Far above its Weight,” *Washington Post*, October 4, 2014.

Cuban medical personnel to easily defect from Cuba by presenting themselves at any U.S. Embassy or Consulate abroad.²²⁷ No other country can access the legal U.S. immigration system through this program. In 2014, the United States granted 1,289 visas to Cuban medical professionals.²²⁸

When the Cuban government sent Juan to Bolivia, Juan was able to present himself at the U.S. Embassy in La Paz and apply for a parole document to travel directly to the United States. After one year of being in the United States, Juan could apply for Lawful Permanent Residence under the Cuban Adjustment Act.

...

A few months after Juan made it to Miami, their sister, Cristina, who had worked in Cayo Guillermo at an international tourist hotel, left the island to join Juan.²²⁹ Cristina never said anything to Manuel or the family in Havana. Although it was taboo to talk about plans to leave the island, Manuel thought she would have mentioned something. Once again, Manuel was left to pick up the pieces when their mother refused to get out of bed for two weeks after Cristina's departure. Cristina knew that all she had to do was get to the United States. If she could get to land, to American soil, and not be found first by the American oficiales, she could get her papers. Every Cuban knew that.²³⁰

Cristina called Juan in the United States and explained she had found someone in Cayo Guillermo who could help her get out of Cuba. Juan knew Cristina would have to save for years to afford the smuggler's fee, or risk being indebted to Cuba's elaborate crime network. Juan offered to send the payment directly. He'd rather owe a friend or

²²⁷ “Parole for Cuban Medical Personnel in Third Countries,” U.S. Citizenship and Immigration Services, last modified September 19, 2006, <http://www.uscis.gov/sites/default/files/files/pressrelease/CubanMedPrf091906.pdf>.

²²⁸ Brianna Lee, “Cuban Doctors Flee Venezuela with the Help of U.S. Parole Program,” *International Business Times*, November 17, 2014.

²²⁹ “Hotel Melia Cayo Guillermo,” Hotel Melia, accessed November 17, 2015, <http://www.melia.com/en/hotels/cuba/cayo-guillermo/melia-cayo-guillermo/index.html>.

²³⁰ Janell Ross, “Why the ‘Wet Foot/Dry Foot’ Debate Could Soon Be Coming to an End,” *Washington Post*, October 16, 2015.

even sell his car in Miami so Cristina would not owe the smugglers.²³¹ And so Juan sent \$10,000 to Cuba in separate installments over the next few months.

Cristina left La Isabela, Cuba, in the dead of night on a boat operated by two smugglers (see Figure 5). Cristina nervously counted around 35 other people on board: men, women, and even children. The plan was for this boat to take them somewhere in the Bahamas, where they would transfer to a different vessel that would take them to the Florida Keys. Juan was supposed to wait for Cristina at a small hotel outside the marina in Florida. Cristina whispered a quiet Hail Mary under her breath and boarded the boat.²³²

Figure 5. Cuban Refugees at Sea



A boatload of Cuban refugees hopes to avoid detection by the U.S. Coast Guard and arrive safely in the United States. Source: UNHCR, accessed March 12, 2016, <http://www.unhcr.org/thumb1/49fafac10.jpg>.

²³¹ Carol J. Williams, “Cuban Smuggling Business Is Thriving,” *Los Angeles Times*, September 17, 2007.

²³² “Administrative Map of Cuba,” Nations Online, accessed November 16, 2015, <http://www.nationsonline.org/oneworld/map/cuba-administrative-map.htm>.

3. Cuban Adjustment Act

The Cuban Adjustment Act was a single piece of legislation enacted by the 89th United States Congress and signed into law by President Lyndon Johnson on November 2, 1966.²³³ The law allows any Cuban national to become a Lawful Permanent Resident under their own immigrant visa category after being inspected or paroled and physically present in the United States for two years (reduced to one year by the Immigration and Nationality Act Amendments of 1976).²³⁴ There is no limit on the number of Cubans who can apply and qualify. For this reason, Cuban nationals do not need to rely on the U.S. Asylum Program. The year 2016 marks the 50th anniversary of the Cuban Adjustment Act.²³⁵ Since its inception in 1966, the Act has seen some minor revisions, but for the most part it has remained intact. Cuba currently has around 11 million inhabitants, close to the current populations of Illinois or Ohio.²³⁶ Though it is a relatively small country, Cubans were the sixth-largest group of new Lawful Permanent Residents in the United States from 2011 to 2013.²³⁷

Cuban nationals who seek Lawful Permanent Residence under the Cuban Adjustment Act are not subject to many of the rules that other lawful immigrants must follow.²³⁸ Cubans do not have to enter the United States at an official port of entry. They do not have to wait for an allocated visa to become available to them, nor do they have to show that they have sufficient financial support.²³⁹ Cubans only need to prove that they are Cuban and physically present in the United States in order to qualify for Lawful Permanent Residence under the Cuban Adjustment Act. It is a law that is unparalleled in the immigration laws of the United States. Nevertheless, Cuban nationals who are

²³³ "Cuban Adjustment Act," Pub. L. No. 89-732, 80 STAT 1161 (1966).

²³⁴ Ibid.

²³⁵ Ibid.

²³⁶ "Country Comparison: Population," Central Intelligence Agency, July 2014, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2119rank.html>.

²³⁷ Martin and Yankay, "Refugees and Asylees 2013."

²³⁸ "Green Card for a Cuban Native or Citizen," U.S. Citizenship and Immigration Services.

²³⁹ Ibid.

physically present in Cuba can still apply for consideration under the U.S. Refugee Program. (The U.S. Refugee Program is discussed in greater detail in Chapter IV.)

...

Once Juan established himself in Miami, he called Manuel every week and asked when the rest of the family would join him. But Manuel knew the journey was far too dangerous. He had young children, and their mother was already using a cane. There was no way they could handle the journey in a “go-fast” boat or yola in the open ocean. Besides, not everyone even made it to Florida. They could be intercepted by American officials, or worse. Manuel had heard stories of people left for dead on desert islands somewhere in the Caribbean.²⁴⁰ Juan was not thinking of all these things. Juan had it easy. He left Cuba on an airplane just like all the tourists. Besides, Manuel had a decent job in Cuba. And Juan wasn’t even working as a medical doctor in Miami—he said the exams were too difficult to become a doctor in the United States. Their mother still did not know that Juan was no longer a doctor and that he worked, instead, in construction and painting outside Fort Lauderdale. Their mother would have been devastated.

After the news of the visa lottery and a few evening walks on El Malecon to talk things over, Manuel and Mary Carmen decided that it would be best to reunite the entire family in Florida, with one important condition. Juan would have to return to Havana to explain the plan to their mother. Manuel knew that the bombo visa had to be used within a certain timeframe, and he would not leave their mother by herself in Cuba. Juan could stay for a few months while the final paperwork was completed.

Manuel spoke to Juan on the phone that following Thursday evening. Juan would not agree to return to Cuba.

“Hermano, you do not understand,” said Juan, “I am not like the Cubans who fly back and forth for the holidays. The Cuban government issued me a passport to go to Bolivia. I defected from the medical program. They would throw me in jail as soon as I set foot on the island. I cannot come back, and I cannot get another Cuban passport.”

²⁴⁰ “40 Cuban Migrants Detained after They Were Left on a Desert Island,” Global News, October 29, 2013, <http://globalnews.ca/news/933008/40-cuban-migrants-detained-after-they-were-left-on-a-deserted-island/>.

“Bueno...” said Manuel. He could see this conversation was going nowhere, and his brother just might be right this time. “What about Cristina, then?” Cristina had gotten her green card. She worked for a cleaning service in Miami, making good money, and even talked about applying for American citizenship once she improved her English. The brothers agreed that Cristina would have to be the one to return to Cuba and bring their mother to Florida.

4. Cuban Family Reunification Parole Program

Under the Cuban Family Reunification Parole Program, Cubans who make it to the United States and become Lawful Permanent Residents can apply for a “fast track” for family members back in Cuba. All Lawful Permanent Residents, Cuban or otherwise, have the right to petition for a spouse or child.²⁴¹ The problem is that family members abroad often have to wait years before a visa is available for them because of numerical limitations in these categories.²⁴² Sections 201–203 of the Immigration and Nationality Act outline the system in place that controls the number of family-based and employment-based immigrants allowed to enter the country.²⁴³ These numbers are calculated from one month to the next, and are announced through the Department of State’s monthly Visa Bulletin.²⁴⁴ Under the numerical system, most Lawful Permanent Residents must wait approximately two years to apply for their foreign-born spouse or child.²⁴⁵ Under the Cuban Family Reunification Parole Program, family members of Cubans in the United States have a quicker process to come to the United States.²⁴⁶

²⁴¹ “Green Card for a Family Member of a Permanent Resident,” U.S. Citizenship and Immigration Services, last modified August 29, 2013, <http://www.uscis.gov/green-card/green-card-through-family/green-card-family-member-permanent-resident>.

²⁴² “The Immigrant Visa Process,” Department of State Bureau of Consular Affairs, accessed December 9, 2015, <http://travel.state.gov/content/visas/english/immigrate/immigrant-process/approved/checkdate.html>.

²⁴³ Immigration and Nationality Act, § 201–203, 8 U.S.C. §1151–1153 (Supp. 2011).

²⁴⁴ “Visa Bulletin for February 2016,” Department of State Bureau of Consular Affairs, last modified January 8, 2016, <https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2016/visa-bulletin-for-february-2016.html>.

²⁴⁵ “Visa Bulletin for February 2016,” Department of State.

²⁴⁶ “The Cuban Family Reunification Program,” U.S. Citizenship and Immigration Services, last modified April 21, 2015, http://qa-env.www.uscis.gov/files/pressrelease/CFRP_QA_21nov02.pdf.

The Cuban Family Reunification Parole Program began on November 21, 2007, and continues to strive to issue a minimum of 20,000 travel documents each year for Cuban family members in Havana.²⁴⁷ This is the program Juan plans to use to petition for his mother to come to the United States. The Cuban Family Reunification Parole Program would allow his mother expeditious processing without having to make a treacherous journey to the United States or otherwise circumvent immigration laws. Once inside the United States, his mother would be given access to immediate public assistance through the U.S. Citizenship and Immigration Services' Cuban–Haitian Entrant Program. This program matches new Cuban refugees with the U.S. Department of Health and Human Services to help the Cuban immigrants apply for all needed services. Cuban parolees are given access to all basic necessities such as housing, a food allowance, social security, public schools, employment training, and medical care.²⁴⁸

...

Cristina agreed to return to Cuba to pick up their mother. The whole family got dressed up and waited for Cristina with excitement at the José Martí International Airport in Havana. They hadn't seen Cristina in six years, and it was the first time they had ever picked up a family member from the airport. The children, and even Manuel and Mary Carmen, were impressed with how many travelers, taxis, and pieces of luggage moved quickly through the corridor. They waited in a large area beyond the security checkpoint where everyone lined up to watch for arriving passengers. Manuel made sure that they were plenty early. Their mother insisted. Their mother had spent all night preparing Cristina's favorite tamales and was up again at 4:00 a.m. to get ready for the trip to the airport. His mother now refused to sit to wait for Cristina. She stood at the front of the crowd with her imposing short stature and cane in hand. A sorrow had rested in her heart ever since Juan and then Cristina left the island. She had waited years for this moment.

²⁴⁷ “Cuban Family Reunification Parole Program,” Department of State, last modified January 26, 2009, <http://www.state.gov/p/wha/rls/fs/2009/115413.htm>.

²⁴⁸ “Cuban-Haitian Entrant Program,” U.S. Citizenship and Immigration Services, last modified November 12, 2015, <http://www.uscis.gov/humanitarian/humanitarian-parole/cuban-haitian-entrant-program-chep>.

“Mami?!” Cristina appeared and hugged her mother tightly.

The whole family gathered around. Even Manuel had to fight back the tears. Their mother could not believe this beautiful woman standing in front of them was her Cristina, all grown up. There were so many things to say. Cristina could not believe how much older everyone looked. She had been gone too long.

Cristina ate like a queen and enjoyed conversations and music well into the night. The plan was for Cristina to stay for a couple of weeks and later return to Cuba once Manuel and Mary Carmen were ready to permanently leave the island. Cristina would then remain in Cuba with their mother until their mother’s entry paperwork was ready to go. The problem was that Cristina was only a Lawful Permanent Resident in the United States, and therefore subject to residency requirements. Any departure over six months could jeopardize Cristina’s lawful status.²⁴⁹ They hoped they would all reunite in Miami within the year.

Two nights later, Manuel and Cristina walked with their mother to El Malecon. They told her they had something important to discuss. Upon hearing the plan for the whole family to move to Miami, their mother looked away from Manuel and Cristina. Tears welled up in her eyes. When her gaze returned, she announced they were both crazy. She was born in Cuba, she said. She lived her whole life in Cuba, and she would die in Cuba. She got up, tapped her cane on the sidewalk, and continued walking along El Malecon, back toward the house.

D. SECURITY CONCERNS

When the United States severed all diplomatic ties with Cuba in 1961, the president of the United States did not meet again with a Cuban head of state until 2015.²⁵⁰ On July 1, 2015, President Obama announced that the United States would re-

²⁴⁹ “Maintaining Permanent Residence,” U.S. Citizenship and Immigration Services, last modified February 17, 2016, <https://www.uscis.gov/green-card/after-green-card-granted/maintaining-permanent-residence>.

²⁵⁰ Danielle Renwick and Brianna Lee, “U.S.-Cuba Relations,” Council on Foreign Relations, last modified August 4, 2015, <http://www.cfr.org/cuba/us-cuba-relations/p11113>.

establish formal diplomatic relations with Cuba, effective July 20, 2015.²⁵¹ Politics are at the heart of the strained relationship between Cuba and the United States. The main source of conflict between the two countries is not that Cuba directly threatens the United States, but rather that “these two nations view the world in diametrically opposed terms, that the values that each seeks to vindicate through its foreign policy make them natural antagonists, and that a permanent rivalry is built into their behavior … It is, in short, a struggle that revolves around ideas, beliefs, and values as much as will and capabilities.”²⁵² The extreme stance and lack of diplomatic communication between the two nations had negative repercussions for the “democracy-promotion” efforts of U.S. foreign policy. The Cuban Democracy Act that established the economic embargo prohibits a long-term solution unless the Cuban government becomes completely democratic in a manner that mirrors the democracy in the United States.²⁵³

The movement made by the U.S. government to re-establish relations with the Cuban government has met grave concern and genuine outrage in Cuban-American exiles.²⁵⁴ Many politicians, such as Florida Senator and Presidential Candidate Marco Rubio, do not support President Obama’s steps to normalize relations.²⁵⁵ Meanwhile, small steps toward a freer society continue to emerge for the people of Cuba. The government of Cuba announced in 2012 that Cuban citizens would no longer require exit permission to leave the country.²⁵⁶ A modification to the unique U.S. immigration policies for Cuba will require an act of Congress. Cuban refugees have access to five different humanitarian immigration programs, three of which are exclusively available to

251 “Facts on Re-establishment,” Department of State.

252 Juan M. Del Aguila, “The Politics of Confrontation: U.S. Policy towards Cuba,” in *The Caribbean Challenge: U.S. Policy in a Volatile Region*, ed. H. Michael Erisman (Boulder, CO: Westview Press, 1984), 103.

253 William I. Robinson, “Pushing Polyarchy,” 643–659.

254 Tom Risen, “Hola Cuba! Obama Administration Allows U.S. Travel to Cuba through Scheduled Tour Groups,” *U.S. News and World Report*, July 2, 2014.

255 Seung Min Kim, “Why the GOP Congress Could Be Trouble for Obama in Cuba,” *Politico*, July 2, 2015, <http://www.politico.com/>.

256 La Republica de Cuba. “Gaceta Oficial,” October 16, 2012, http://www.cubadebate.cu/wp-content/uploads/2012/10/ley-migratoria_cuba_2012.pdf. See also Sergio Alejandro Gomez, “Migratory Policy in Cuba Takes Effect,” *Diario Gramma*, January 14, 2013, <http://www.granma.cu/granmad/2013/01/14/nacional/artic06.html>.

Cuban nationals.²⁵⁷ U.S. humanitarian immigration policies for Cuba must be incorporated into a larger strategy. American values promote humanitarian assistance for the world's vulnerable populations, but the exceptionalism granted to the Cuban migration crisis may no longer be justified.

E. CONCLUSION

U.S. foreign policy strategy post-1950 was dominated by a theory that the establishment of socialist governments would lead to a “domino effect” of increased communist support. When the Cuban revolution showed increasingly communist tendencies, the United States ended its diplomatic relationship with the country and saw massive numbers of immigrants seek refuge in the United States. The Cuban Adjustment Act is a completely unique humanitarian immigration reform developed in response to a massive influx of Cuban immigrants. The law allows for much more relaxed standards and requirements for Cuban immigrants to remain permanently in the United States. Today, the Cuban Adjustment Act is one avenue among several humanitarian immigration options open to Cuban nationals. Cubans can qualify under the U.S. Refugee Program, under the Diversity Lottery Visa Program, and under the Medical Parole and Family Reunification Parole programs.

In 2014, U.S.-Cuban relations began to change, supporting a gradual opening of government institutions and freedoms for its citizens. The immigration policies in place for Cuban refugees are no longer timely, and send a message of exceptionalism to the rest of the world that is incongruent with other U.S. immigration laws and values. The United States could continue to process all Cuban nationals with humanitarian need under the existing U.S. Refugee and Asylum programs without the need for the Cuban Adjustment Act.

²⁵⁷ “Cuban Family Reunification Parole Program,” U.S. Citizenship and Immigration Services, accessed July 7, 2015, <http://www.uscis.gov/humanitarian/humanitarian-parole/cuban-family-reunification-parole-cfrp-program>.

IV. CASE STUDY: SYRIA

A. COUNTRY CONTEXT

The ongoing conflict in Syria has resulted in the largest humanitarian migration movement since World War II.²⁵⁸ Syrian refugees are escaping an ongoing civil war and the spread of the Islamic State of Iraq and Syria (ISIS). The dangers are culturally, ethnically, and politically motivated, as individuals flee from multiple conflicts in war-torn chaos. Reports explain that within the Syrian conflict there is little differentiation between military and civilian forces, with violence on all sides. This crisis has triggered the forced exodus of more than 4 million refugees as of July 2015.²⁵⁹ Another 7.6 million Syrian people are internally displaced.²⁶⁰ Thousands of Syrian refugees have flooded into Europe. Each nation has the autonomy to determine which refugees it will accept; “In crude summary, the international law of refugees says, ‘let those people go’; ‘don’t send them back to where they came from’; but it does *not* say ‘take those people in.’”²⁶¹ The United States was slow to respond to the Syrian refugee crisis, but ultimately agreed to accept up to 10,000 Syrian refugees in 2016.²⁶² All Syrian nationals considered for refugee status in the United States must pass security checks, as determined by the U.S. government. Very few Syrian refugees have actually made it through the U.S. Refugee Resettlement Program.

In the meantime, Syrian nationals who are already present in the United States remain in a limbo immigration status, sometimes for years, while a request for asylum is

²⁵⁸ “EU Says World Facing Worst Refugee Crisis since WWII,” UNHCR, last modified August 16, 2015, <http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=52fc6fdb5&id=55d17e7b5>.

²⁵⁹ “UNHCR: Total Number of Syrian Refugees Exceeds Four Million for First Time,” UNHCR, July 9, 2015, <http://www.unhcr.org/559d67d46.html>.

²⁶⁰ “UNHCR: Total Number of Syrian Refugees,” UNHCR.

²⁶¹ Carl Kaysen, *Threatened Peoples Threatened Borders*, ed. Michael Teitelbaum and Myron Weiner (New York: Norton, 1995), 246.

²⁶² Gardiner Harris, David E. Sanger, and David M. Herszenhorn, “Obama Increases Number of Syrian Refugees for U.S. Resettlement to 10,000,” *New York Times*, September 10, 2015.

processed.²⁶³ On January 5, 2015, Jeh Johnson announced that Syrian nationals were eligible to renew Temporary Protected Status.²⁶⁴ But Temporary Protected Status does not lead to a permanent immigration solution.²⁶⁵ The U.S. response to the Syrian population's needs has been slow, cumbersome, and insufficient. This global migratory event has raised public and political concern about whether or not the United States is adequately addressing vulnerable populations in a manner that upholds the historical ideals of our country while ensuring the safety of the American people.

The emergent migratory situation in Syria is relatively recent, but the need is extreme. Of the 4 million Syrian refugees living in nearby countries, more than half are children.²⁶⁶ Syrian unaccompanied minors are migrating as far as Greece to seek safety and opportunity in the European Union.²⁶⁷ The now-famous photo of Aylan Kurdi (see Figure 5), the three-year-old Syrian refugee whose body was found washed up on a Turkish beach, drew international attention to the profound desperation of this crisis.²⁶⁸

²⁶³ Sean Lyngaas, "Syrian Asylum-Seekers Face Long Waits in Backlogged U.S. System," *Washington Post*, June 13, 2015.

²⁶⁴ "Temporary Protected Status Designated Country - Syria," U.S. Citizenship and Immigration Services, accessed July 25, 2015, <http://www.uscis.gov/news/news-releases/dhs-announces-18-month-redesignation-and-18-month-extension-temporary-protected-status-syria>.

²⁶⁵ "Temporary Protected Status Designated Country - Syria," U.S. Citizenship and Immigration Services.

²⁶⁶ "The Mediterranean Migration Crisis: Why People Flee, What the EU Should Do," Human Rights Watch, last modified June 22, 2015, <https://www.hrw.org/report/2015/06/19/mediterranean-migration-crisis/why-people-flee-what-eu-should-do>.

²⁶⁷ "EU: Abuses against Children Fuel Migration," Human Rights Watch, last modified June 22, 2015, <https://www.hrw.org/news/2015/06/22/eu-abuses-against-children-fuel-migration-0>.

²⁶⁸ Karen Miller Pensiero, "Aylan Kurdi and the Photos that Change History," *Wall Street Journal*. September 11, 2015.

Figure 5. Syrian Refugee, 3-Year-Old Aylan Kurdi, Deceased on a Turkish Beach



The accidental death of Aylan Kurdi, a young Syrian refugee fleeing on an overcrowded boat, prompted international concern over the plight of the Syrian population. Source: "Ayla Kurdi Baby Photo World Press Photos of the Island," Dogan News Agency, January 24, 2016, http://www.dha.com.tr/-aylan-kurdi-bebek-fotografi-world-press-photosa-aday_1120851.html.

In 2014, the UNHCR referred more than 12,000 refugee applicants for consideration in the U.S. Refugee Program. Of these, the United States initially accepted less than 1,000, citing difficulty performing adequate background checks.²⁶⁹ The small numerical commitment from the United States came under much scrutiny by international aid organizations. David Miliband, president of a major refugee assistance organization, publicly said that the United States should commit to accepting at least 65,000 Syrian

²⁶⁹ Michele Kelemen, "Of 4 Million Syrian Refugees the U.S. Has Taken Less than 1000," National Public Radio, last modified June 16, 2015, <http://www.npr.org/sections/parallels/2015/06/16/414898818/of-4-million-syrian-refugees-the-u-s-has-taken-fewer-than-1-000>.

refugees.²⁷⁰ This request was supported by Illinois Senator Dick Durbin and other members of Congress in a letter to the President.²⁷¹ In September of 2015, President Obama ultimately committed the United States to accepting 10,000 Syrian refugees in 2016.²⁷²

The U.S. Refugee Program is bound by annual numerical quotas. The current Congressional allotment for total refugees admitted for one year is 70,000.²⁷³ In 2015, the United States tried to accept between 1,000 and 2,000 Syrian refugees.²⁷⁴ These numbers are nowhere close to the estimates suggested by international relief organizations. The U.S. Department of State's 2013 refugee statistics showed the following numbers of admitted refugees from the countries of interest to this study:

- Hondurans (or any country in Central America) = 0
- Cubans = 4,205
- Syrians = 36²⁷⁵

These numbers do not reflect the humanitarian urgency that exists in these countries. Whether the numbers reflect the national values of the United States is debated by the public, non-profit organizations, the media, and elected officials.

While the world decides whether or not to accept Syrian refugees for resettlement, the problems in Syria continue. There has always been a strong oppositional force against the government in Syria. The group is composed primarily of Sunni Muslims who seek to

²⁷⁰ David Miliband, "U.S. Should Boost Resettlement of Syrian Refugees," *Washington Post*, March 19, 2015.

²⁷¹ Dick Durbin and Amy Klobuchar, "Senators Urge President to Allow More Syrian Refugees to Resettle in the U.S.," Dick Durbin, last modified May 21, 2015,
<http://www.durbin.senate.gov/newsroom/press-releases/senators-urge-president-to-allow-more-syrian-refugees-to-resettle-in-us>.

²⁷² Tanya Somanader, "What You Need to Know about the Syrian Refugee Crisis and What the U.S. Is Doing to Help," The White House, last modified September 15, 2015,
<https://www.whitehouse.gov/blog/2015/09/15/what-you-need-know-about-syrian-refugee-crisis-and-what-us-doing-help>.

²⁷³ "FY 13 Refugee Admissions Statistics," Department of State.

²⁷⁴ D'Angelo Gore, "Resettling Syrian Refugees," FactCheck.org, last modified June 4, 2015,
<http://www.factcheck.org/2015/06/resettling-syrian-refugees/>.

²⁷⁵ "FY 13 Refugee Admissions Statistics," Department of State.

end the Assad regime in favor of a democratically elected government.²⁷⁶ The Assad regime has been unwilling to relinquish power or engage in serious dialogue with the opposition; instead, it used—and still uses—military and security forces to maintain its control of the population.²⁷⁷ In doing so, the Assad regime lost international support, particularly from Turkey and the United States. Russia and China remain strong allies of Syria and the Assad regime.²⁷⁸

B. FICTIONAL SCENARIO

Hayat helped her mother divide up the bread as best she could and arranged the rough pieces neatly on a tin plate. Her mother had said everything would be better in Lebanon, but Hayat was still waiting to see their lives improve. For one thing, they didn't have an apartment with stairs and a regular roof like in Syria. They had a large white tent that made a lot of noise when it was windy (see Figure 6).²⁷⁹ Hayat's new school was crowded. Hayat could understand the things her teacher said, but it was not as fun as her old school because they did not have the same colorful papers and pencils. Hayat was placed in year four because that is where all the nine- and ten-year-olds were placed, but Hayat knew she should be in year five. Hayat had completed all her studies in year four back in Syria and found the current lessons boring. At least she could play outside with the other kids. There were always friends close by, even though her mother did not let her go very far.

Hayat looked over at her younger brother moving a small toy car across the cement block in front of their tent. A lot of the other boys around were jealous of his toy car. Hayat was happy she remembered to bring it when they left Syria. Her brother was still sad about leaving their grandparents, their dog, and everything else back home. But

²⁷⁶ Amr Al-Azm, “Syrian Uprising: Looking in, Looking out,” *Peacebrief*, no. 110 (October 2011), http://permanent.access.gpo.gov/gpo34368/PB%20110_0.pdf.

²⁷⁷ Amr Al-Azm, “Syrian Uprising.”

²⁷⁸ “Syria Crisis: Where Key Countries Stand,” BBC, last modified October 30, 2015, <http://www.bbc.com/news/world-middle-east-23849587>.

²⁷⁹ “2015 UNHCR Country Operations Profile - Lebanon,” UNHCR, accessed November 17, 2015, <http://www.unhcr.org/pages/49e486676.html>.

Hayat knew better than to be sad now. She knew they might not be able to go back to Syria for a long, long time.

Figure 6. Syrian Refugee in Marj, Lebanon



A Syrian refugee family awaits an uncertain future at the UNHCR refugee camp in Marj, Lebanon. Source: Jamie Dettmer, "UN Presses Lebanon to Open Syrian Refugee Camps," Voice of America, June 18, 2014, <http://www.voanews.com/content/un-presses-lebanon-to-open-syrian-refugee-camps/1684189.html>.

C. REFUGEE STATISTICS

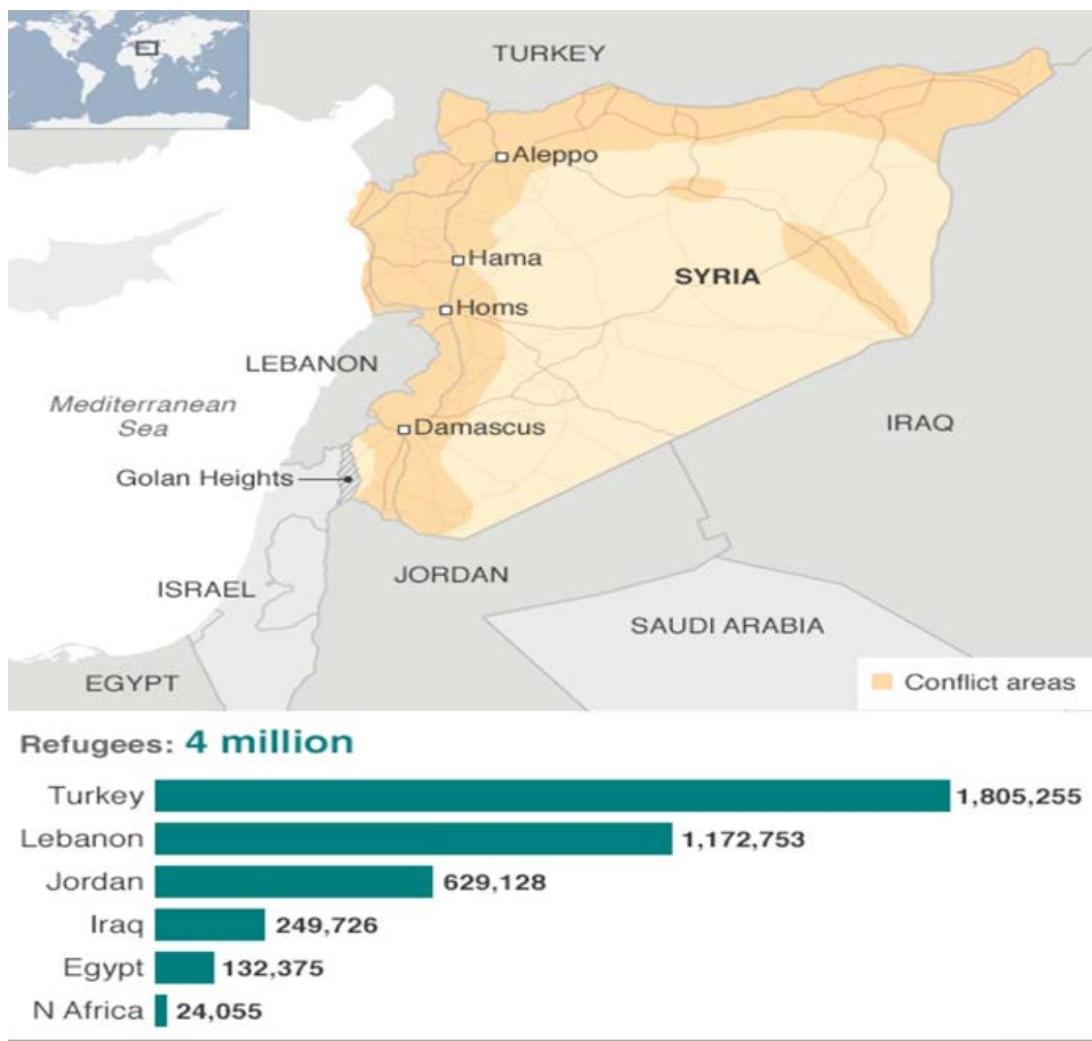
Neighboring Turkey and Lebanon have absorbed the majority of Syrian refugees (see Figure 7). Current reports from the UNHCR state that, as of December 31, 2015, there were 1,069,111 Syrian refugees registered in Lebanon, making refugees roughly one-fifth of the country's total population.²⁸⁰ Although Lebanon is not party to the 1951 Geneva Convention Relating to the Status of Refugees, Syrians in Lebanon have been accepted as refugees. The Lebanese Ministry of Social Affairs is the official government agency responsible for coordinating the emergency response to this humanitarian crisis with the help of the UNHCR.²⁸¹ There are a high percentage of women and children

²⁸⁰ "2015 UNHCR Country Operations Profile - Lebanon," UNHCR.

²⁸¹ "Syria Regional Refugee Response," UNHCR, last modified December 31, 2015, <http://data.unhcr.org/syrianrefugees/country.php?id=122>.

Syrian refugees in Lebanon. The UN has tried to make special arrangements to address the unique needs of this population.²⁸²

Figure 7. Syrian Refugee Map



Source: "Syria: Mapping the Conflict," BBC, July 10, 2015, <http://www.bbc.com/news/world-middle-east-22798391>.

²⁸² "The 2014 Syria Regional Response Plan: Lebanon," UNHCR, last modified November 17, 2015, <http://www.unhcr.org/syriarrp6/docs/syria-rrp6-lebanon-response-plan.pdf>.

...

Hayat walked outside the tent and watered the tiny seeds she had brought from Syria. The small bottle was propped up in the dirt next to their tent. Her grandmother gave her the seeds right before they left: “So you will always be able to grow roots,” she said.

Hayat was very sad to leave her grandparents in Syria. A few days after Hayat, her mother, and her brother arrived in the massive tent city, Hayat found an old bottle lying on the ground. She filled it with dirt and softly covered two of the seeds. She checked on her seed bottle every day but had yet to find signs of life.

In Syria, after her father disappeared, Hayat knew that they were not safe anymore. They had lived on the outskirts of Latakia. Hayat and her brother hid in a closet every time they heard a missile or explosion in the distance, which was often.²⁸³ Their father had worked at the big university there called Tishreen, and their grandparents owned the bakery down the street from their apartment.²⁸⁴ Their mother often helped in the bakery, and Hayat and her brother knew they could always go there for a tasty treat. Their grandparents stayed on the family’s small farm outside Latakia, but later they moved into town because of all the fighting in the mountains.²⁸⁵

Hayat remembered one of their last nights in the apartment. She had asked her father why there was so much fighting. Her father looked tired. He slowly explained that Syria was locked in a type of cage, and many different people were fighting to find the key. Hayat smiled at this, thinking of so many grownup men fighting to find a simple key. Her father had kissed her goodnight. She heard him light a cigarette and go down the stairs and out the back. He never returned home.

²⁸³ “The 2014 Syria Regional Response Plan: Lebanon,” UNHCR.

²⁸⁴ “November Rocket Attack on Latakia near Tishreen University,” Liveuamap, November 11, 2015, <http://syria.liveuamap.com/en/2015/10-november-rocket-attack-on-latakia-near-tishreen-university>.

²⁸⁵ “The Regime Forces Target the Northwestern Countryside of Daraa and Renewed Clashes in the Northern Countryside of Latakia,” Syrian Observatory of Human Rights, last modified November 17, 2015, <http://www.syriahr.com/en/2015/11/the-regime-forces-target-the-northwestern-countryside-of-daraa-and-renewed-clashes-in-the-northern-countryside-of-latakia/>.

Two months later, Hayat waited with her brother and her mother in a long line to register as refugees in Lebanon. They were assigned a white tent, given a few food supplies, a tin plate, two cups, and three blankets. Mother said they would only stay a few weeks, until something better could be found. That was three months ago.

D. IMMIGRATION OPTIONS

1. U.S. Refugee Program

In 1951, delegates from 26 different countries established the United Nations Convention Relating to the Status of Refugees.²⁸⁶ Article 1(A)(2) of the convention document defines a refugee as someone who has a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.”²⁸⁷ Based on the ideas adopted by the United States during the 1951 Geneva Convention Relating to the Status of Refugees, qualifying forced migrants cannot be returned to their countries of origin.²⁸⁸ Erika Feller, UN Assistant High Commissioner for Protection of Refugees, explains that this founding document is still “the wall behind which refugees can shelter,” and that “it is the best we have, at the international level, to temper the behavior of states.”²⁸⁹ The U.S. Refugee Program seeks to find and assist the most vulnerable populations of the world, while furthering U.S. foreign policy.

...

Hayat’s father had worked as a university professor in Syria. He spoke French, Arabic, and English and was educated in Europe. He still held a valid visa to travel in Europe and the United States because of his long-time employment with the university and his scholarship abroad. Hayat’s father had been closely monitored by the university for anti-government or oppositional tendencies. Enormous photos of the Assad rulers

²⁸⁶ United Nations General Assembly, *Convention and Protocol Relating to the Status of Refugees*, Resolution 2198 (XXI) (1967), accessed January 5, 2016, <http://www.unhcr.org/3b66c2aa10.html>.

²⁸⁷ United Nations General Assembly, *Convention and Protocol*.

²⁸⁸ “The 1951 Refugee Convention,” United Nations.

²⁸⁹ Marilyn Achiron, “The Wall behind which Refugees Can Shelter: The 1951 Geneva Convention,” *Refugees* 2, no. 123 (2001), 6–7.

hung atop the main university building to remind everyone where their allegiance should lie (see Figure 8).²⁹⁰

Figure 8. Assad Regime Rulers' Photos Displayed atop Tishreen University's Main Building in Latakia, Syria

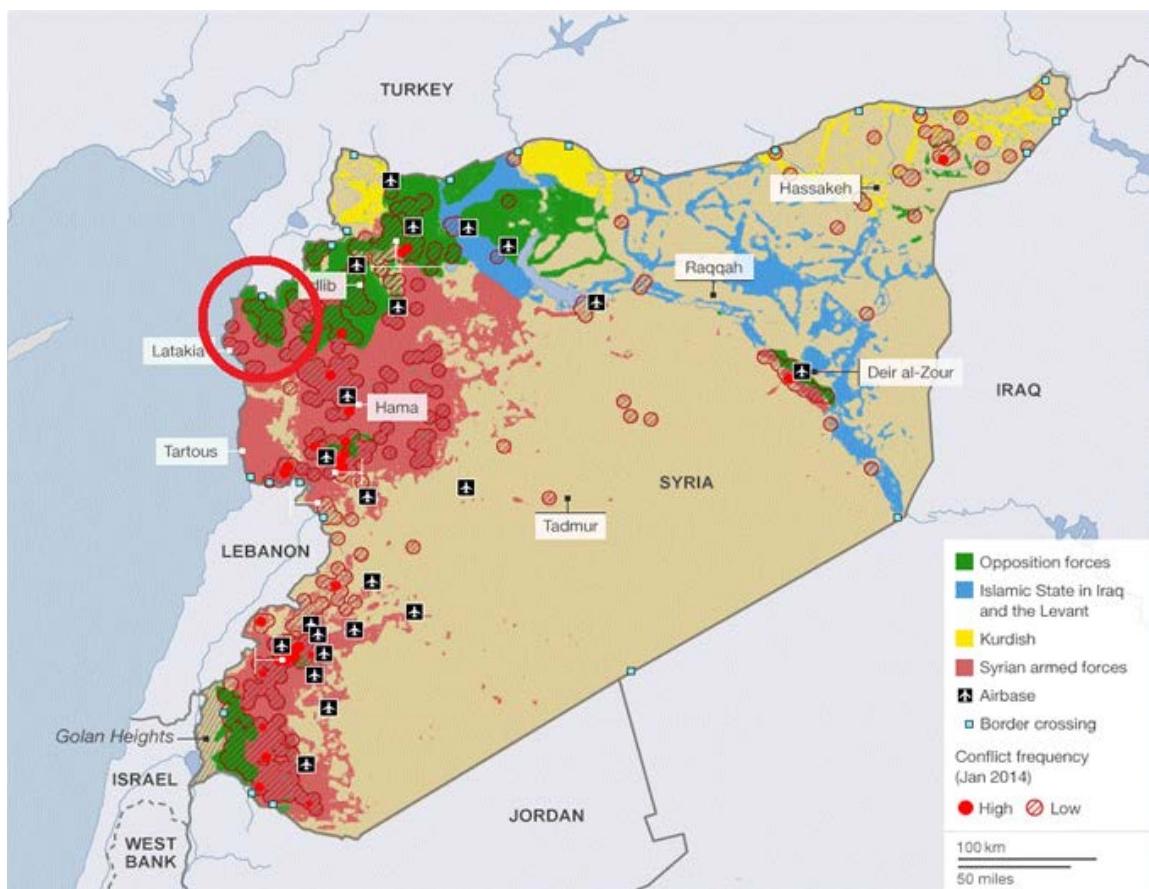


Source: "Tishreen University," accessed December 9, 2015, <http://www.tishreen.edu.sy>.

Hayat's father was a very smart man and knew how to play the system. He did what he needed to do to keep his job at the university, but many friends with whom he had grown up had disappeared either in government arrests or fighting with the opposition. Hayat's father kept his distance, but every day the fighting moved closer to Latakia (see Figure 9). As the violence worsened, he knew his family could not stay. But there was no way they could obtain the visas or authorization to leave Syria now. Hayat's father arranged to travel to Turkey, with the help of friends. From there he would try to reach Europe or the United States. He could not say anything to anyone, not even his own wife. She was safer if she knew nothing. He would send for Hayat and the rest of the family once he got to safety.

²⁹⁰ "Tishreen University," accessed December 9, 2015, <http://www.tishreen.edu.sy>.

Figure 9. Map of Syria Conflict



Source: “Syria: Mapping the Conflict” BBC, July 10, 2015, <http://www.bbc.com/news/world-middle-east-22798391>

2. Temporary Protected Status

On March 29, 2012, the Secretary of Homeland Security designated Syria as an eligible country for Temporary Protected Status due to “extraordinary and temporary conditions.”²⁹¹ Hayat’s father will be able to benefit from Temporary Protected Status offered to Syrians already present in the United States. The designation was re-announced in 2015, at which point any Syrian who was present in the United States from June 17, 2013 to January 5, 2015 could qualify.²⁹² Despite the extended open application

²⁹¹ Department of Homeland Security, “Extension and Redesignation of the Syrian Arab Republic for Temporary Protected Status,” *Federal Register* 80, no. 2 (January 2015): 245–252. <https://federalregister.gov/a/2014-30871>.

²⁹² Department of Homeland Security, “Extension and Redesignation,” 245–252.

period, only half of all Syrians present in the United States have registered with the program—there are approximately 5,000 Syrians registered for Temporary Protected Status, of a potential 10,000.²⁹³ Reports suggest a possible lack of trust in the government system or the continued hope of returning to Syria as possible reasons for the low registration numbers.²⁹⁴

...

It was a long and complicated journey, but when he arrived in the United States, Hayat's father met up with an old friend he knew from their college days in France. The friend told him about the Temporary Protected Status program for Syrians stuck in the United States. Although it had been several weeks since Hayat's father left Syria, he immediately tried to call their house. He now had a plan to get the family at least as far as Europe. He had found a group of smugglers who could take each of them from Turkey to Greece for around \$3,000 U.S. dollars.²⁹⁵ But the phone line at the house was disconnected. He tried his wife's cell phone, but got nothing. Finally, Hayat's father was able to contact his parents at the bakery. His mother cried when she heard her son's voice. "Praise Allah!" she said over and over. His father got on the phone and explained how the family thought he had been killed or arrested by government agents. Hayat, her mother, and brother had no choice but to travel to Lebanon to seek refuge. They had received one phone call from Hayat's mother to say she had made it safely to Lebanon. Nothing more was known.

²⁹³ "Temporary Protected Status Designated Country - Syria," U.S. Citizenship and Immigration Services.

²⁹⁴ Thalia Beaty, "Less Than Half of Qualified Syrians in U.S. Apply for Protected Legal Status," Al Jazeera America, July 5, 2015, <http://america.aljazeera.com/articles/2015/7/5/temporary-relief-for-some-syrians-in-the-us.html>.

²⁹⁵ "The Billion-Dollar Business of Refugee Smuggling," Al Jazeera, last modified September 15, 2015, <http://www.aljazeera.com/programmes/countingthecost/2015/09/billion-dollar-business-refugee-smuggling-150913113527788.html>.

Refugees are required to apply to immigrate to the United States while they are outside of the country.²⁹⁶ The U.S. Asylum Program is the sister program to the U.S. Refugee Program. The main difference between the two is that refugees are processed outside the United States, whereas asylum seekers are applicants who are already in the United States or requesting admission at a U.S. port of entry. Together, the U.S. Refugee Program and the U.S. Asylum Program are the only immigration programs available to meet the needs of all displaced persons fleeing persecution. There are no numerical limitations on the U.S. Asylum Program, but because each immigrant in the Refugee Program receives financial public assistance and other immediate benefits, the number of refugee slots is limited by annual appropriations from Congress.²⁹⁷ By August 2014, the United States received 2,500 Syrian referrals to the Refugee Program from the UNHCR.²⁹⁸ Referrals from the UNHCR are not guaranteed a slot in the U.S. Refugee Program but are presented to the United States for consideration. Of the 2,500 refugee cases presented to the United States by the UNHCR in 2014, the United States ultimately accepted 132 refugees from Syria.²⁹⁹

The United States accepts specific allocations of refugees from all over the world based on the annual recommendations from the U.S. Department of State. In 2014, the United States accepted almost 70,000 refugees, only 132 of which were Syrian nationals. The proposed worldwide number for 2015 is also 70,000.³⁰⁰ The President of the United States has now agreed to allocate 10,000 slots (of the 70,000 total) to Syrian refugees in 2016, but each applicant must be able to pass through the refugee vetting process. In addition, the presidential decision to try to accept more Syrian refugees has brought

²⁹⁶ Immigration and Nationality Act, § 207–208, 8 U.S.C. § 1157–1158 (1980).

²⁹⁷ “Refugees and Asylum,” U.S. Citizenship and Immigration Services, last modified November 12, 2015, <http://www.uscis.gov/humanitarian/refugees-asylum>.

²⁹⁸ “Proposed Refugee Admissions for FY 2015,” Department of State Bureau of Population, Refugees and Migration, last modified September 18, 2014, <http://www.state.gov/j/prm/releases/docsforcongress/231817.htm>.

²⁹⁹ “Fiscal Year 2014 Refugee Arrivals,” Department of Health and Human Services Office of Refugee Resettlement, February 11, 2015, <http://www.acf.hhs.gov/programs/orr/resource/fiscal-year-2014-refugee-arrivals>.

³⁰⁰ “Proposed Refugee Admission for FY 2016,” Department of State Bureau of Population, Refugees and Migration, last modified October 1, 2015, <http://www.state.gov/j/prm/releases/docsforcongress/247770.htm>.

unprecedented opposition from state governments, with the governors of 31 states declaring that Syrian refugees will not be welcome in their states (see Figure 10).³⁰¹ State governments, however, do not directly govern the U.S. Refugee Program.

In the wake of the Paris terrorist attacks, French President Francois Hollande committed to accepting another 30,000 Syrian refugees over the next two years. According to the *Washington Post*, President Hollande went on record as saying, “We have to reinforce our borders while remaining true to our values.”³⁰² The United States is being criticized by the international relief organizations and partners in the European Union, who believe that the United States is flouting its values by accepting minimal numbers of Syrian refugees.³⁰³

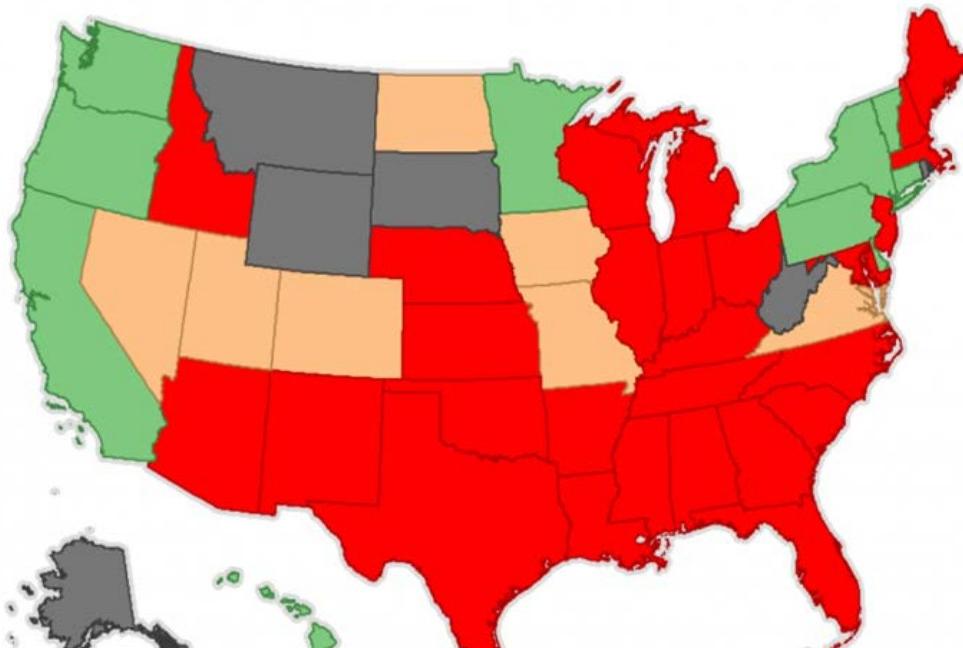
³⁰¹ Ashley Fantz and Ben Brumfield, “More than Half the Nation’s Governors Say Syrian Refugees Not Welcome,” CNN, November 19, 2015.

³⁰² Ishaan Tharoor, “France Says it Will Take 30,000 Syrian Refugees, while U.S. Republicans Would Turn Them Away,” *Washington Post*, November 18, 2015.

³⁰³ ‘U.S. Commitment to Accept up to 8,000 Syrians Not Enough,’ International Rescue Committee, last modified September 2, 2015, <http://www.rescue.org/press-releases/international-rescue-committee-us-commitment-accept-8000-syrians-not-enough-26191>.

Figure 10. Where U.S. States Stand on Syrian Refugees

■ Refusing Syrian refugees ■ Lacks Syrian refugee relocation program or requests
■ Accepting Syrian refugees ■ Seeking more information about federal security policies for refugees



Source: Hanna Sender, "Map: Every State Accepting and Refusing Syrian Refugees," *Newsweek*, November 16, 2015, <http://www.newsweek.com/where-every-state-stands-accepting-or-refusing-syrian-refugees-395050>.

...

It had been one full year since Hayat, her mother, and her brother left Syria. The family had now moved out of the refugee camp and into the city. They lived in one room of a small makeshift house in Arsal with another Syrian family and a Lebanese family.³⁰⁴ Hayat's mother found work baking bread for a basic food shop down the street. Hayat and her brother were left in the house with the other families while their mother went to work for a few hours very early in the morning. She usually returned home around lunchtime.

Hayat awoke one day, and her mother was already gone. She was glad her mother was not around because she had a big plan for the day. Hayat's plant was now over 50 centimeters high, and she needed to find a new pot or bottle to cultivate it.

³⁰⁴ "2015 UNHCR Country Operations Profile - Lebanon," UNHCR.

Hayat's mother did not want the children playing outside when she was away, but Hayat mentally promised they would not go far. Hayat and her brother walked along the street where they lived looking through trash for a good pot.

Hayat recalled the day they went to talk to the people from the United Nations. It was many months ago now. Her mother had made sure that everyone had clean clothing, a bath with hot water and soap, and a full stomach of rice porridge for the trip. With many other families, they were to see the workers from the refugee agency that were helping the United Nations to register Syrian nationals, hoping to be resettled in Europe or the United States. The agency workers set up a separate area outside the United Nations tent city. Hayat and her mother and brother waited for a very long time to be seen by the refugee agency representatives. There was a person who translated for them. They were all photographed, and Hayat's mother was fingerprinted. Their mother was taken into another area while Hayat and her brother waited near the front. The area was separated by a small wall, but Hayat could still hear her mother's voice. She was gone for a long time—Hayat listened carefully as her mother told the woman on the other side of the wall about their life back in Syria. When she came out, Hayat could tell her mother had been crying, but she did not look sad. She looked...relieved. It was the first time Hayat had seen hope in her mother's eyes since they had come to Lebanon. Later that night, before bed, Hayat's mother told her that things would be better very soon. Since Hayat's father was no longer with them, they would receive special consideration from the refugee agency. Hayat knew that somehow, even though her father was not there, he was still looking out for them, wherever he was, and Hayat smiled as she drifted off to sleep.

The dull shine of green plastic in the road caught Hayat's eye. She could not believe her luck! A slightly dented two-liter bottle (the kind Hayat had seen at parties back in Syria) sat, discarded, along the side of the road near a fence. Hayat and her brother rushed across the street to collect the bottle. It was bent, but Hayat knew she could make it work. It was the perfect new home for her plant.

E. SECURITY CONCERNS

There is no end in sight for the conflict in Syria. In the meantime, the UN estimates that over 13.5 million Syrians are displaced within Syria, beyond the 4.7 million refugees that have fled to other countries.³⁰⁵ On December 18, 2015, the UN Security Council agreed on a plan and timetable to establish peace in Syria. The plan starts with closed-door talks between the Syrian government and the Syrian opposition leaders, though a date to begin has not been confirmed.³⁰⁶ There is hope that peace will come, but millions of displaced Syrians have already been forced out of a homeland ravaged by war and violence.

The constant turbulence in the region caused by the Iraqi wars, and then the Syrian wars, allowed for a handful of radicalized young Muslims to find a stronghold and sympathizers ready to rally behind a new world order. Al Qaeda emerged from the conflicts in Afghanistan and Pakistan as the world's most feared terrorist organization. As their radical ideology spread to Iraq and Syria, a new affiliated group took shape known as the Islamic State of Iraq and Syria, or ISIS. ISIS leader Abu Bakr al-Baghdadi shocked the world, and even Al Qaeda, with displays of unprecedented brutality.³⁰⁷ ISIS has established an advanced funding network and territorial claims that culminate in their version of a "true" Islamic caliphate.³⁰⁸ Foreign fighters from all over the globe have been attracted to the extreme rhetoric and warfare for Islam that ISIS promises. As the map in Figure 11 indicates, citizens from Europe, Africa, North America, and Australia have engaged in fighting with ISIS in Iraq and Syria.

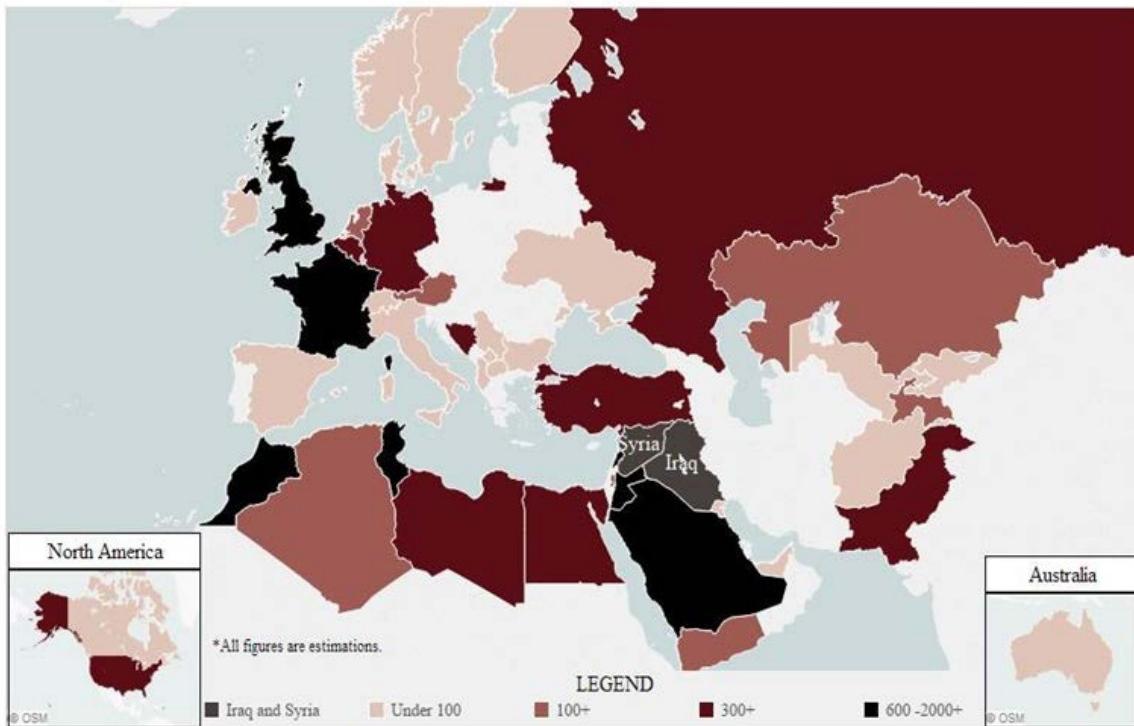
³⁰⁵ "Joint Press Release from UNOCHA, UNHCR, and UNDP," UNHCR, January 12, 2016, <http://www.unhcr.org/56955d3e6.html>.

³⁰⁶ "Security Council Unanimously Adopts Resolution 2254 (2015), Endorsing Road Map for Peace Process in Syria, Setting Timetable for Talks," United Nations, December 18, 2015, <http://www.un.org/press/en/2015/sc12171.doc.htm>.

³⁰⁷ Jessica: *The State of Terror* (New York: Harper Collins, 2014), 3–5.

³⁰⁸ Stern and Berger, *ISIS*, 260–261, 278–279.

Figure 11. ISIS Foreign Fighters



Source: "Foreign Fighters in Iraq & Syria: Where Do They Come from?" Radio Free Europe Radio Liberty, last modified March 11, 2016, <http://www.rferl.org/contentinfographics/foreign-fighters-syria-iraq-is-isis-isil-infographic/26584940.html>.

Academics and international authorities are monitoring travel routes for ways to counter the plans of foreign ISIS sympathizers who seek to join the fight. A recent publication from the International Center for the Study of Radicalization and Political Violence (at King's College in London) suggests current numbers of foreign fighters in Iraq and Syria exceed 20,000, a number that surpasses those seen during the conflict in Afghanistan.³⁰⁹ International ISIS recruits are citizens of all different countries, traveling with passports from all different countries. To confound the issue further, reports indicate that travelers to and from Syria have been encountered using fake passports and

³⁰⁹ Peter R. Neumann, *Foreign Fighter Total in Syria/Iraq now Exceeds 20,000; Surpasses Afghanistan Conflict in the 1980s* (Munich, Germany: The International Center for the Study of Radicalization and Political Violence, 2015).

intentionally unusual travel patterns. In November of 2015, Honduran police intercepted three Syrian nationals traveling from El Salvador, using fake Greek passports.³¹⁰

The explosive reach of ISIS has incited violent action outside of Iraq and Syria. Some of the terrorists who launched the horrific attack in Paris on November 13, 2015 are believed to have been directly involved with ISIS.³¹¹ The terrorist attack in San Bernardino, California on December 2, 2015 may also have been inspired by a foreign terrorist organization.³¹² The same month, also in California, a college student in Sacramento plead guilty to federal charges of trying to provide material support to a terrorist organization after expressing interest in joining ISIS.³¹³ Two Iraqi refugees were arrested in January of 2016, one in California who fought with ISIS, and one in Texas who expressed interest in joining ISIS.³¹⁴ Both men were Palestinian and came to the United States as refugees. When one of the men was interviewed by U.S. Citizenship and Immigration Services on October 6, 2014, he told the immigration officer that he had no affiliation with any terrorist group and he had travelled to Turkey to visit family.³¹⁵ This information was later used to aid prosecutors in making the arrest. Though this individual fought with ISIS and provided material support to the terrorist organization in Syria, “The prosecutor’s office in Texas said there was no imminent threat to public safety associated with Mr. Hardan’s arrest.”³¹⁶ These men had been motivated to join the fighting in Syria, but it did not appear that the recruits had any intentions of planning a direct attack against the United States.

³¹⁰ “Honduras Arrests Five U.S.-Bound Syrians with Stolen Passports,” BBC, November 19, 2015, <http://www.bbc.com/news/world-latin-america-34864193>.

³¹¹ Mariano Castillo and Paul Cruickshank, “Who Was Abdelhamid Abaaoud: Suspected Ringleader of Paris Attack?,” CNN, November 19, 2015.

³¹² Sarah Parvini and Kate Mather, “San Bernardino Shooter Used Friend to Dodge Gun Check, May Have Planned Larger Attack, Sources Say,” *Los Angeles Times*, December 10, 2015.

³¹³ Sam Stanton and Denny Walsh, “Lodi-area Islamic State Supporter Pleads Guilty, Faces 15 Years in Prison,” *Sacramento Bee*, December 1, 2015, <http://www.sacbee.com/>.

³¹⁴ Manny Fernandez and Liam Stack, “Iraqi Refugees in Texas and California Accused of Terrorism Ties,” *New York Times*, January 7, 2016, <http://www.nytimes.com/>.

³¹⁵ Fernandez and Stack, “Iraqi Refugees.”

³¹⁶ Ibid.

The international reach of ISIS continues to spark controversy over the refugee process in the United States. The State of Texas became the first to sue the Department of State and a non-profit refugee organization called the International Rescue Committee in December 2015 for failing to consult with the state prior to placing Syrian refugees.³¹⁷ The governor of Texas called on President Obama multiple times to stop refugee processing.³¹⁸ In January of 2016, the governor of Alabama filed suit against the federal government over the matter of Syrian refugees.³¹⁹ Both states cite a clause from the Refugee Act of 1980, in which the federal government is mandated to consult with states regarding refugee placement. This is the same law that established the Office of Refugee Resettlement under the federal Department of Health and Human Services.³²⁰ With the prevalence of online social networks to further their message, the reach of ISIS is spanning the globe. Citizens from every country are at risk of being recruited into the fight. The U.S. Department of Defense is engaged in ongoing airstrikes against ISIS in Iraq and Syria.³²¹ In the meantime, Syrian refugees continue to seek a safe haven away from the war.

F. CONCLUSION

Syria is a country where a small minority has long ruled over the rest of the population, using force and oppression under the Assad regime. There is no functioning democratic system. The ongoing conflict in Syria has resurrected country coalitions that echo the same global tensions from the Cold War. The international fear is that the conflict in Syria will escalate to become another regional war in the Middle East. The U.S. response to the humanitarian migration crisis in Syria has been largely ineffective.

³¹⁷ State of Texas, et al. vs. United States of America et al., No. B-14-254, 2014, United States District Court Southern District of Texas, “Memorandum Opinion and Order,” entered February 16, 2015.

³¹⁸ Alexa Ura, “Texas Sues to Block Syrian Refugees,” *Texas Tribune*, December 2, 2015, <http://www.texastribune.org/>.

³¹⁹ Laura Wagner, “Alabama Sues U.S. Government over Plans for Syrian Refugee Resettlement,” NPR, January 7, 2016.

³²⁰ Immigration and Nationality Act, § 411, 8 U.S.C. § 1521 (1980).

³²¹ Department of Defense, “Operation Inherent Resolve: Targeted Operations against ISIL Terrorists,” accessed February 2, 2016, http://www.defense.gov/News/Special-Reports/0814_Inherent-Resolve.

There was a period of Temporary Protected Status for Syrian nationals present in the United States, though program registration numbers are low. Overseas, the United States has accepted very few of the Syrian refugees presented for resettlement by the UNHCR. The Department of State launched ads through a public awareness campaign that seeks American support for refugees and counter the growing concerns over potential security issues within the refugee program (see Figure 12).

Figure 12. Department of State Syrian Refugee Ad



Department of State public awareness campaign to gain greater American support of Syrian refugees.
Source: “Syrian Refugee Response,” Department of State, accessed February 21, 2016,
<http://www.state.gov/j/prm/policyissues/issues/refugeeresponse/index.htm>.

The United States must maintain a response plan and rhetoric that is consistent with its value system as a nation welcoming of immigrants, particularly those who seek refuge. The country has much to gain from diplomatic messaging as a nation sympathetic to the major migratory crisis stemming from the Syrian conflict. In the meantime, the U.S. state governments that focus their attention on suing federal agencies over the refugee process fail to address the source of the security problem. ISIS looks to recruit members from all over the world: Australia, Europe, Canada, Syria, and the United States. ISIS is willing to exploit any migratory vulnerability it can find, well beyond the lengthy U.S. refugee process. Public and political insecurities surrounding ISIS

recruitment and covert foreign Syrian fighters must address the issue in its appropriate global context while remaining true to the positive values of the nation.

V. CONSIDERATIONS FOR NATIONAL SECURITY

The vetting procedures that exist within the U.S. Refugee Program are under close public scrutiny. Because of the Syrian refugee crisis and threats imposed by Syrian fighters and international terrorist groups such as ISIS, the public fears that humanitarian immigration programs may be placing the United States at an increased security risk. The world is more interconnected today through the Internet and advances in technology. Psychology Professor Fathali Moghaddam explains how “globalization and increased contact between different groups, particularly those with little previous history of living together, presents humankind with glorious opportunities but also confronts people with terrifying perils.”³²² The sheer number of Syrian refugees who wish to resettle in Western nations pose a concern to the host nations. How many refugees can a country accept before its resources are diminished? There is additional concern about whether or not this new wave of Syrian refugees will be able to assimilate into Western cultures. Can Syrian refugees embrace Western values and ideals?

A heightened fear of the background check and screening process for humanitarian immigration populations stems largely from the urgency of their “flight plight.” The chaotic situation in Syria results in an overall lack of available and/or accessible government institutions or sources for verification. The U.S. Refugee Program is under tremendous pressure to provide detailed explanations of the background check and refugee screening process because of public concern with this particular population.

A. LEGAL IMMIGRATION SYSTEM

Background checks are performed at multiple points during an immigrant’s legal journey to the United States. On October 27, 2015, Leon Rodriguez, director of U.S. Citizenship and Immigration Services, explained to the House Committee on Foreign Affairs, Subcommittee on the Middle East and North Africa, that “refugees are subject to the highest level of security checks, and a refugee applicant is not cleared for travel until

³²² Moghaddam, *Multiculturalism and Intergroup Relations*, xiii.

the results of all required security checks have been obtained and cleared.”³²³ Background checks collect and store photographs, fingerprints, and biographic information on all foreign applicants who present themselves to the U.S. government for screening.³²⁴ The information is collected at multiple junctions and compared to existing databases maintained by multiple U.S. government agencies. Background checks look at areas such as previous visa requests and immigration history, travel history, criminal records, contact with military and intelligence agencies, and warrants of arrest. Technological advances in data storage and retrieval have allowed for information shared and collected by the U.S. government today to be more robust than at any other point in history.³²⁵

Beyond the background check systems, there are application forms and in-person interviews conducted by international refugee organizations and government refugee officers employed by U.S. Citizenship and Immigration Services.³²⁶ Both entities review all information on the application forms with the help of an independent translator; application information includes criminal history, travel history, marital status and children, ethnicity, employment history, foreign addresses, education, family relationships, and even military or paramilitary training. U.S. Citizenship and Immigration Services uses Form I-590 for refugee processing. The form was officially updated in 2014 to include questions in a more consistent format.³²⁷

The information on the form is self-reported by applicants, but all information is subject to further review and verification by the U.S. government. An applicant’s inability to provide all information or inconsistent information may result in the case

³²³ *Examining the Syrian Humanitarian Crisis from the Ground (Part II): Hearings Before the Committee on Foreign Affairs*, 114th Cong., 1st Sess. (2015) (statement of Leon Rodriguez, Director, U.S. Citizenship and Immigration Services).

³²⁴ Lisa Seghetti, *Border Security: Immigration Inspections at Ports of Entry* (CRS Report No. R43356) (Washington, DC: Congressional Research Service, 2015).

³²⁵ Seghetti, *Border Security*.

³²⁶ “Refugee Processing and Security Screening,” U.S. Citizenship and Immigration Services, last modified December 3, 2015, <https://www.uscis.gov/refugeescreening>.

³²⁷ Department of Homeland Security, “Agency Information Collection Activities: Registration for Classification as a Refugee, Form I-590; Revision of a Currently Approved Collection,” *Federal Register* 79 (2014): 6915–6916.

being held for further consideration or denied for insufficient evidence. An applicant's willful failure to provide sufficient information or answer all questions truthfully will result in the denial of the case. The Immigration and Nationality Act states: "An alien who, by fraud or willful misrepresentation of a material fact, seeks to procure, has sought to procure, or has procured a visa, other documentation, or admission into the United States or other benefit provided under the Act, is inadmissible."³²⁸ If an immigrant has already entered the country and is then found to have provided false information, he or she can be deported under the law.³²⁹

Any applicant who is found to have been a member of a terrorist group, provided material support to a terrorist organization, or engaged in military-type training is denied under federal law. Section 212 of the Immigration and Nationality Act states:

The grounds for inadmissibility include, but are not limited to, individuals who:

- Engaged in "terrorist activity";
- Are engaged or are likely to engage in terrorist activity after entry;
- Incited terrorist activity with intent to cause serious bodily harm or death;
- Are representatives or current members of a terrorist organization;
- Endorsed or espoused terrorist activity;
- Received military-type training from or on behalf of a terrorist organization; or
- Are spouses or children of anyone who has engaged in terrorist activity within the last five years (with certain exceptions).³³⁰

Terrorist activity is defined as "various actions commonly associated with terrorism such as kidnapping, assassination, hijacking, nuclear, biological, or chemical agents, the use of firearms or other dangerous devices etc."³³¹ There is no special provision to differentiate

³²⁸ Immigration and Nationality Act, § 212, (a)(6)(C)(i), 8 U.S.C. § 1182, (1952).

³²⁹ Immigration and Nationality Act, § 237, 8 U.S.C. § 1227 (1996).

³³⁰ Immigration and Nationality Act, § 212, 8 U.S.C. § 1182 (1952).

³³¹ "Terrorism-related Inadmissibility Grounds," U.S. Citizenship and Immigration Services, last modified February 18, 2016, <https://www.uscis.gov/laws/terrorism-related-inadmissibility-grounds/terrorism-related-inadmissibility-grounds-trig>.

terrorists from freedom fighters. Any person who engages in this type of activity for the purpose of overthrowing a government regime, whether it is a democratic or authoritarian regime, is considered a terrorist under the U.S. definition.

Although concern surrounding the screening of refugees through insufficient background checks is real, it is not new. Refugees always flee war-torn, chaotic, and violent situations. In most global conflicts, the United States has clear allies and enemies. The U.S. Refugee Program began as a global response to the massive human displacement caused by World War II. When thousands of European Jews sought refuge, the United States did not have an immediate response plan with adequate security measures. The U.S. Department of State was concerned that refugees admitted into the country could be working as spies for Germany.³³² President Franklin D. Roosevelt allowed for a few thousand refugees to enter through one specially designed port of entry, but the refugees could only hail from non-occupied areas in Europe.³³³ Congress refused to modify the numerical immigration quotas, so at the end of 1945, after the war had ended, President Harry Truman issued an executive order to ensure that existing immigration quotas were used specifically for refugees. It was not until 1948 that Congress passed new legislation to allow for the entry of 400,000 refugees.³³⁴

Even when country records are available, some government regimes cannot be trusted to produce accurate information, particularly of its persecuted populations. One year after the United States formally ended diplomatic relations with the new communist Cuban government, the Cuban Refugee Center in Miami had registered 155,000 refugees.³³⁵ The United States accepted 125,000 Vietnamese refugees in the first years after South Vietnam was captured by the communist government of the north in 1975.³³⁶

³³² “United States Policy towards Jewish Refugees 1941–1945,” United States Holocaust Memorial Museum, last modified January 2016, <http://www.ushmm.org/wlc/en/article.php?ModuleId=10007094>.

³³³ “United States Policy towards Jewish Refugees” United States Holocaust Memorial Museum.

³³⁴ Ibid.

³³⁵ John F. Thomas, “Cuban Refugees in the United States,” *International Migration Review* 1, no. 2 (1967): 46–57, doi: 10.2307/3002808.

³³⁶ Gregory Auclair and Jeanne Batalova, “Naturalization Trends in the United States,” Migration Policy Institute, October 24, 2013, <http://www.migrationpolicy.org/article/naturalization-trends-united-states>.

The refugee process has adapted over the years to be able to provide a systematic review of each applicant in spite of the overwhelming unavailability of country records.³³⁷

The U.S. refugee screening process capitalizes on a multi-tiered and multi-agency approach that partners non-governmental organizations with the federal government.³³⁸ The international mandate of the UNHCR is to protect and assist refugees through a lasting solution to their plight. The three possible solutions for refugees are to return to their home country, to request asylum in the country they have fled to, or to request international resettlement in a third country.³³⁹ Under the UNHCR operational procedures, most refugees are maintained in temporary housing or camps to await repatriation to their country of origin when country conditions improve.³⁴⁰

After an extended period of time, if the UN determines that repatriation is still highly unlikely, they will begin to work with international non-governmental organizations to identify refugees who may qualify for firm resettlement in one of many different receiving countries. Out of the millions of refugees that UNHCR has registered, only about one percent is referred for resettlement to a resettlement country—most refugees remain in the country of first asylum to which they fled or eventually return home when it is safe to do so.³⁴¹

Each receiving country has its own laws and regulations to determine who can qualify for refugee status. Although many nations base their refugee laws on the international standards set forth by the Geneva Convention, there are nuances that vary from one country to the next. There are about 25 countries worldwide that are willing to resettle refugees referred by the UNHCR. The countries that accept the largest number of cases are the United States, Canada, Germany, the UK, and the Scandinavian

³³⁷ U.S. Citizenship and Immigration Services, “Documentation and Evidence,” in *U.S. CIS Policy Manual*, Vol. 7 (Washington, DC: Department of Defense, 2016), <http://www.uscis.gov/policymanual/HTML/PolicyManual-Volume7-PartL-Chapter4.html#S-D>.

³³⁸ “Refugee Processing and Security Screening,” U.S. Citizenship and Immigration Services.

³³⁹ “Durable Solutions,” UNHCR, accessed December 9, 2015, <http://www.unhcr.org/pages/49c3646cf8.html>.

³⁴⁰ “Finding Durable Solutions,” UNHCR, last modified 2014, <http://www.unhcr.org/528a0a13b.html>.

³⁴¹ “Resettlement: A New Beginning in a Third Country,” UNHCR, accessed December 8, 2015, <http://www.unhcr.org/pages/4a16b1676.html>.

countries.³⁴² Non-governmental refugee processing organizations work to identify and prioritize special needs cases (such as women, survivors of torture, unaccompanied children, urgent health concerns, etc.).³⁴³ The non-governmental organizations work with government representatives from multiple countries who conduct interviews with each refugee applicant.

Since 2005, the United States has deployed a specially trained group of refugee officers from the Department of Homeland Security's U.S. Citizenship and Immigration Services to determine if overseas applicants qualify for participation in the U.S. Refugee Program.³⁴⁴ Refugee officers are trained in immigration law, interviewing techniques, and specific country conditions.³⁴⁵ These officers interview the refugee applicants based on referrals made by the non-governmental organizations and/or the U.S. Embassy.³⁴⁶ The refugee applicants who pass the screening and interview process then await the clearance of background checks performed by the U.S. government. This waiting period can last several months and the case is held in abeyance during the process.³⁴⁷ Any refugee who cannot pass the interview or background check process will be denied admission under the U.S. Refugee Program. Refugees may request that their cases be

³⁴² “Resettlement: A New Beginning in a Third Country,” UNHCR.

³⁴³ “UNHCR Resettlement Submission Categories,” UNHCR, accessed November 21, 2015, <http://www.unhcr.org/558bff849.html>.

³⁴⁴ *Terrorist Exploitation of Refugee Programs: Written testimony for a House Committee on Homeland Security, Subcommittee on Counterterrorism and Intelligence hearing* (testimony of Barbara Strack, U.S. Citizenship and Immigration Services, Refugee, Asylum & International Operations Directorate Refugee Affairs Division) (December 4, 2012), <https://www.dhs.gov/news/2012/12/04/written-testimony-uscis-house-homeland-security-subcommittee-counterterrorism-and>.

³⁴⁵ “RAIO Training Materials,” U.S. Citizenship and Immigration Services, last modified August 1, 2013, <https://www.uscis.gov/about-us/directorates-and-program-offices/refugee-asylum-and-international-operations-directorate/raio-training-materials>.

³⁴⁶ “The United States Refugee Admissions Program (U.S.RAP) Consultation & Worldwide Processing Priorities,” U.S. Citizenship and Immigration Services, last modified July 17, 2015, <https://www.uscis.gov/humanitarian/refugees-asylum/refugees/united-states-refugee-admissions-program-usrap-consultation-worldwide-processing-priorities>.

³⁴⁷ “Refugee Security Screening,” U.S. Citizenship and Immigration Services, last modified December 3, 2015, https://www.uscis.gov/sites/default/files/U.S.CIS/Refugee%20Asylum%20and%20Int%20Ops/Refugee_Security_Screening_Fact_Sheet.pdf.

reopened or reviewed with new evidence, but there is no formal appeal process.³⁴⁸ The entire process is highly selective and controlled. Upon approval, eligible refugees are screened again by U.S. Customs and Border Protection Officers at a port of entry.³⁴⁹ One year after entry, refugees are seen again by U.S. Citizenship and Immigration Officers as they attempt to adjust their refugee immigration status to that of a Lawful Permanent Resident.³⁵⁰

B. UNLAWFUL ENTRIES, LAWFUL STATUS

Compare the U.S. Refugee Program to other humanitarian immigration programs in which applicants may apply after entering the United States without a prior background check or U.S. government screening process. These programs were discussed in the fictional scenarios, and include the U.S. Asylum Program, Temporary Protected Status, humanitarian parole programs, Deferred Action for Childhood Arrivals, and the Cuban Adjustment Act. Within each of these programs, applicants are physically present in the United States at time of application. These humanitarian immigration programs do not require that the applicants enter the country legally. Applicants can register for the program in the United States with some restrictions (depending on the program), and await the outcome of the background checks and final decision while present inside the United States. Of these programs, only two confer long-term permanent resident status and a pathway to U.S. citizenship: the Cuban Adjustment Act and the U.S. Asylum Program. If a case is denied, the applicant can still make a case for withholding of removal before an immigration judge prior to deportation.³⁵¹

³⁴⁸ “Ombudsman Recommendation Update: U.S.CIS Adjudication of Applications for Refugee Status,” Department of Homeland Security, September 29, 2015, <https://www.dhs.gov/uscis-adjudication-applications-refugee-status>.

³⁴⁹ “Refugee Processing and Security Screening,” U.S. Citizenship and Immigration Services.

³⁵⁰ “Adjustment of Status,” U.S. Citizenship and Immigration Services, last modified July 14, 2015, <https://www.uscis.gov/green-card/green-card-processes-and-procedures/adjustment-status>.

³⁵¹ “Asylum and Withholding of Removal Relief Convention against Torture Protections,” Department of Justice Executive Office for Immigration Review, last modified January 15, 2009, <http://www.justice.gov/sites/default/files/eoir/legacy/2009/01/23/AsylumWithholdingCATProtections.pdf>.

C. UNLAWFUL ENTRIES, UNLAWFULLY PRESENT

This study must consider the national security implications of a final category of immigrant that often remains in the shadows of all legal immigration programs: immigrants who enter the United States unlawfully or those who enter the country under a temporary visa category and fail to maintain lawful status. Both of these groups are unlawfully present in the United States. Of greatest concern to national security are those who are virtually unknown to the U.S. government and physically present in the country. They have had no background checks or other screening, and may possibly be using a false identity in order to reside or work in the country illegally.³⁵²

When considering the importance of background checks and screening, immigrants who have entered the country under some type of temporary visa category (student, visitor, temporary worker) and do not maintain their status have at least received some type of preliminary screening by the Department of State and the Department of Homeland Security. Applicants for visitor visas complete paper applications, receive electronic background checks, and participate in a brief in-person interview at a U.S. Embassy abroad. In-person interviews are required for any visa applicant aged 14–80 years.³⁵³ Information obtained during the application and interview process may be sent for verification by U.S. Embassy personnel. Fraud or misrepresentation committed during the process can appear at different points, both before and after travel to the United States.

When a person remains beyond his or her period of authorized stay, the Department of Homeland Security is notified. The decision to act upon this alert is subject to the enforcement priorities and personnel resources available. On November 20, 2014, Secretary of Homeland Security Jeh Johnson issued a superseding memo to the heads of Immigration and Customs Enforcement, U.S. Citizenship and Immigration

³⁵² “18 Illegal Aliens Arrested in East Texas Using False Identities to Gain Employment,” Immigration and Customs Enforcement, accessed December 16, 2015, <https://www.ice.gov/news/releases/18-illegal-alien-arrested-east-texas-using-false-identities-gain-employment>.

³⁵³ “Visitor Visa,” Department of State.

Services, U.S. Customs and Border Protection, and the DHS Office of Policy.³⁵⁴ The memo specifically outlines the current immigration enforcement priorities: “Due to limited resources, DHS and its components cannot respond to all immigration violations or remove all persons illegally in the United States. As is true of virtually every other law enforcement agency, DHS must exercise prosecutorial discretion in the enforcement of the law.”³⁵⁵ The memo goes on to outline more specific priorities for the removal of certain undocumented immigrants, such as those with a criminal record, those who are concerns to national security, those who are concerns to public safety, and those who have repeatedly violated immigration laws.³⁵⁶ In 2015, Immigration and Customs Enforcement deported 96,045 non-criminal and another 139,368 convicted criminal aliens. The total number of people deported from the country in 2015 (235,413) is the lowest number deported in over eight years.³⁵⁷

D. IN HINDSIGHT

Congressional representatives, political candidates, and the public at large have been quick to point the finger at the humanitarian immigration system, particularly the U.S. Refugee Program, for putting the nation at increased risk to abuse by terrorists. Refugees are screened with far greater rigor than is applied in all other U.S. immigration programs, and the screening process occurs while the applicants are still outside of the United States. None of the terrorists from the attacks on September 11, 2001 were admitted to the United States as refugees; in fact, since September 11th, native-born Americans have been responsible for half of the terrorist attacks in the United States.³⁵⁸ The 10 immigrant terrorists who planned attacks in the United States have the following immigration profiles:

³⁵⁴ Jeh Johnson, “Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants,” Department of Homeland Security, November 20, 2014, https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf.

³⁵⁵ Johnson, “Policies for the Apprehension,” 2.

³⁵⁶ Ibid.

³⁵⁷ “FY 2015 ICE Immigration Removals,” Immigration and Customs Enforcement, accessed January 6, 2016, <https://www.ice.gov/removal-statistics>.

³⁵⁸ Sergio Pecanha and K.K. Rebecca Lai, “The Origins of Jihadi-Inspired Attackers in the U.S.,” *New York Times*, December 8, 2015, <http://www.nytimes.com/>.

- 2015 San Bernardino attack = permanent resident based on marriage
- 2015 killed service members at Tennessee military recruiting office = naturalized citizen
- 2013 Boston bombing = one naturalized citizen and one permanent resident, both children of parents granted asylum status in the United States
- 2010 planted bomb in Times Square = naturalized citizen
- 2010 fired shots at military buildings in Washington, DC = naturalized citizen
- 2009 airplane underwear bomber = visitor visa
- 2006 drove vehicle through University of North Carolina = naturalized citizen
- 2002 shot employees at Los Angeles El Al ticket counter = permanent resident
- 2001 airplane shoe bomber = visa waiver country, no visa required for travel³⁵⁹

There appears to be a growing number of refugees, as well as U.S. citizens, lured via social media and the Internet to fight in support of ISIS. In December 2015, two scholars, Lorenzo Vidino and Seamus Hughes from the Program on Extremism at the George Washington University, published a report titled *ISIS in America: From Retweets to Raqqa*. This report shows 71 individuals have been arrested for ISIS-related activities since March of 2014. Two-thirds of the arrests came during 2015. Of the total number arrested, 27 percent were also committed to planning attacks on the United States.³⁶⁰

The American public must remember the reality of what a background check can and cannot accomplish. Risk is inherent in any process. Though a background check can help to deter unlawful activities and mitigate risk within the immigration system, risk will never be eliminated. Background checks will never show every detail of a person's life,

³⁵⁹ Pecanha and Lai, "The Origins of Jihadi-Inspired Attackers."

³⁶⁰ Lorenzo Vidino and Seamus Hughes, *ISIS in America: From Retweets to Raqqa* (Washington, DC: George Washington University, 2015), https://cchs.gwu.edu/sites/cchs.gwu.edu/files/downloads/ISIS%20in%20America%20-%20Full%20Report_0.pdf.

nor a person's propensity to commit a crime in the future, nor his or her willingness to assimilate into the American way of life.

The one percent of eligible international refugees who are selected to be referred to the U.S. Refugee Program are thoroughly reviewed through multiple layers of background checks and screening. Protracted refugees who enter the United States legally or illegally and are physically present in the United States pose a slightly greater risk as they await background checks and a final decision on their humanitarian immigration status inside the country. Occasionally, this review process can take years due to large backlogs in the U.S. Asylum Program and immigration courts. But a final category of unlawful immigrants, and those who circumvent the legal immigration processes of the United States, are virtually unknown to the U.S. government. This final population should be viewed as the greatest security concern for the nation.

Immigration enforcement priorities are determined by the Secretary of Homeland Security. From 2008 to the present, fewer and fewer unlawful immigrants have been deported from the country. On the other hand, new refugees are thoroughly vetted and scrutinized in detail by multiple federal officers prior to entry into the country. Most terrorist attacks in the United States have been committed by naturalized and native-born U.S. citizens.

ISIS seeks to recruit citizens of every nation, including the United States and all European countries. Refugees from Syria pose no greater threat to the American public than any U.S. citizen who may be susceptible to covert ISIS recruitment. ISIS is actively recruiting membership on an unprecedented international scale, with citizens from the United States and other countries lured into using irregular travel patterns and fraudulent passports in a constant effort to circumvent or abuse global immigration processes. There are multiple goals among the Syrian fighters. Of the 71 ISIS sympathizers identified by the Federal Bureau of Investigation within the United States, only 27 percent desired or planned to actively attack the United States. Some Americans arrested for their support of ISIS claim to have had absolutely no ambition of attacking the United States. Understanding the nuances of ISIS and its recruits is necessary to providing appropriate security measures. The United States should not allow the threat of any foreign terrorist

organization to force the nation to abandon its ideals and identity as an international leader willing to accept vulnerable refugees in need.

VI. RECOMMENDATIONS

A. IMMIGRATION AND NATIONAL IDENTITY

The federal government's role in defining immigration and national security in the United States dates back to its very founding documents. The Declaration of Independence includes a list of "injuries and usurpations" that explains in detail the grievances suffered by the American people under the tyrannical rule of the King of Great Britain. Chief among them was the following problem: "[The King of Great Britain] has endeavoured to prevent the population of these states; for that purpose of obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of land."³⁶¹ The authors of the Declaration of Independence recognized that migration was essential to the development of the country.

The U.S. Constitution is the working document that put into action the ideals expressed in the Declaration of Independence. According to the U.S. Constitution, to provide national security is the only mandatory function of the federal government.³⁶² There are specific instructions within the U.S. Constitution that relate to the duty of the federal government to "suppress insurrections and repel invasions."³⁶³ There is also a specific requirement within the U.S. Constitution for the federal government to "establish a uniform rule of naturalization."³⁶⁴ The United States does not differentiate between a natural-born and naturalized citizen. The legal definition of naturalization in the United States has been set to mean "the act of adopting an alien into a nation, and clothing him with all the rights possessed by a natural-born citizen."³⁶⁵ The United States currently

³⁶¹ Vidino and Hughes, *ISIS in America*.

³⁶² Jim Talent, "A Constitutional Basis for Defense," heritage.org, last modified June 1, 2010, <http://www.heritage.org/research/reports/2010/06/a-constitutional-basis-for-defense>.

³⁶³ U.S. Const. art. I, § 8.

³⁶⁴ Ibid.

³⁶⁵ Boyd v. State of Nebraska, 143 U.S. 135, (1892).

counts 18.7 million naturalized citizens within its population.³⁶⁶ The concepts of naturalization and national security have co-existed as central themes from the country's foundation to the present.

The 2014 Department of Homeland Security *Quadrennial Homeland Security Review* emulates the same pro-immigration rhetoric in the strategic priorities of homeland security: "Immigration will always be, first and foremost, an opportunity for our country. We reap great economic benefits from receiving the best, brightest, and most hardworking people from across the globe."³⁶⁷ The United States cannot close its borders or otherwise support anti-immigration policies without altering the nation's identity.

The debate on how to allow for legal immigration into the country is also as old as the country's foundation. Alexander Hamilton wrote to Thomas Jefferson in 1801:

There is a wide difference between closing the door altogether and throwing it entirely open; between a postponement of fourteen years [at this time in history the process of naturalization took fourteen years], and an immediate admission to all the rights of citizenship. Some reasonable term ought to be allowed to enable aliens to get rid of foreign and acquire American attachments; to learn the principles and imbibe the spirit of our government; and to admit of a probability at least, of their feeling a real interest in our affairs. A residence of not less than five years ought to be required.³⁶⁸

The system of naturalization to produce citizenry in the United States only works when new citizens assimilate into the ideals of democracy.³⁶⁹ A study published in 2008 by the Manhattan Institute Center for Civic Innovation reviewed data U.S. Census Bureau data from 1900 to the present and assigned assimilation indices to different populations. The

³⁶⁶ Auclair and Batalova, "Naturalization Trends in the United States."

³⁶⁷ Department of Homeland Security, *2014 Quadrennial Homeland Security Review* (Washington, DC: Department of Homeland Security, 2014), 65.

³⁶⁸ Alexander Hamilton, "Examination of Jefferson's Message to Congress of December 7, 1801," in *The Works of Alexander Hamilton*, Vol. 8 (New York: Putnam's, 1904).

³⁶⁹ Matthew Spalding, "Why Does America Welcome Immigrants?," heritage.org, last modified June 30, 2011, <http://www.heritage.org/research/reports/2011/06/why-does-america-welcome-immigrants>.

study determined that immigrants today are assimilating at a slower rate than immigrants 100 years ago.³⁷⁰ This is an area of important concern.

The nation's strategic narrative must be protected and instilled in each new wave of immigrants. This does not mean the narrative cannot be modified and improved. In fact, dissent is a necessary part of a democracy. The position of the federal government and our nation's strategic narrative can easily be lost in the colorful fray of dissenting opinions. We cannot sacrifice our nation's core values during a political debate. We live in a world that is saturated by media. In many ways, the information transmitted through the media influences everything from politics to international relations. The government must be proactive in the content and format of the nation's narrative to improve public understanding of important issues.³⁷¹ A bold attempt was made by two military officers, U.S. Navy Captain Wayne Porter and U.S. Marine Corps Colonel Mark "Puck" Mykleby, to craft a national strategic narrative in 2011. In their document, they wrote:

As Americans we needn't seek the world's friendship or to proselytize the virtues of our society. Neither do we seek to bully, intimidate, cajole, or persuade others to accept our unique values or to share our national objectives. Rather, we will let others draw their own conclusions based upon our actions. Our domestic and foreign policies will reflect unity of effort, coherency and constancy of purpose. We will pursue our national interests and allow others to pursue theirs, never betraying our values.³⁷²

Our actions define us as a nation. In the United States, there exists a sense of responsibility for world order. Since World War II, U.S. leadership has actively sought to spread democracy and shared values in an international formula for freedom and prosperity.³⁷³ As Jeh Johnson succinctly states, "In a free and open democratic society, we cannot eliminate all risk. Nor should we succumb to panic, fear, and anxiety to

³⁷⁰ Jacob L. Vigdor, *Measuring Immigrant Assimilation in the United States* (Report No. 53) (New York: Center for Civic Innovation at the Manhattan Institute, 2008), 3, http://www.manhattan-institute.org/pdf/cr_53.pdf.

³⁷¹ Alister Miskimmon, Ben O'Loughlin, and Laura Roselle, *Strategic Narratives* (New York: Routledge, 2013), 1–29.

³⁷² Wayne Porter and Mark Mykleby, *A National Strategic Narrative* (Washington, DC: Woodrow Wilson International Center for Scholars, 2011), <https://www.wilsoncenter.org/sites/default/files/A%20National%20Strategic%20Narrative.pdf>.

³⁷³ Henry Kissinger, *World Order* (New York: Penguin, 2014), 276–329, 361–362.

compromise our values.”³⁷⁴ In the preface of *A National Strategic Narrative*, Anne-Marie Slaughter, professor of politics and international affairs at Princeton University, argues that America needs a narrative that citizens can understand and relate to their own lives. She goes on to explain that America is not guaranteed a leadership position in the world. This is a position that must be earned through respect of the nation’s actions that embody universal values.³⁷⁵ Committing our nation’s resources to humanitarian immigration, particularly in areas of world with the greatest need, is simply the right thing to do for our strategic narrative.

B. LEGISLATION

How to modify the existing immigration laws to secure the nation is a constant debate. Immigration programs can be adjusted by executive authority directives and agency priorities, but real change to immigration law requires an act of legislation. Congressional bipartisan support for immigration reform can only be obtained by negotiating sections of a bill that would satisfy both ends of the political spectrum. Based on the research in this study, the following areas of focus should be considered in future comprehensive immigration reform to better address humanitarian immigration programs:

- (1) Expand the U.S. refugee definition.

No country can prevent immigrants from traveling. Refugee populations who leave their country of origin for reasons of an urgent or extreme nature represent significant challenges to immigration systems. The United States has a legal obligation to accept refugees based on its membership in the United Nations and its ratification of the Geneva Convention. If a refugee has a valid claim to status under the Geneva Convention

³⁷⁴ Jeh Johnson, “Statement by Secretary Jeh Johnson on the Safety and Security of the Homeland, and How Congress Can Help,” Department of Homeland Security, November 23, 2015, <https://www.dhs.gov/news/2015/11/23/statement-secretary-jeh-c-johnson-safety-and-security-homeland-and-how-congress-can>.

³⁷⁵ Anne-Marie Slaughter, *Introduction to Porter and Mykleby, A National Strategic Narrative* (Washington, DC: Woodrow Wilson International Center for Scholars, 2011), <https://www.wilsoncenter.org/sites/default/files/A%20National%20Strategic%20Narrative.pdf>.

and is permitted to seek resettlement through the UNHCR, the United States is prohibited from denying the case.

The U.S. definition of a refugee does not currently include individuals who are victims of an environmental catastrophe or victims of a government system that is unable to protect its citizens. The U.S. definition of a refugee is specific to those who face political persecution due to one of five immutable characteristics: race, religion, ethnicity, political opinion, or membership in a particular social group. This definition may be insufficient.

Alternative definitions of refugee status as adopted in Latin America (through the Cartagena Declaration) and by the Organization of African States include an additional provision to aid certain victims of violence.³⁷⁶ The United States rejects these ideas. As a result, the United States is seeing an increasing number of protracted refugees who lawfully remain in the country in an immigration status that is somewhere between illegal and Lawful Permanent Resident. By expanding the U.S. definition of a refugee to include those who flee prolonged environmental disasters or periods of violence, the United States would enjoy greater flexibility to address humanitarian concerns.

(2) Keep Temporary Protected Status temporary.

Temporary Protected Status is a much-needed government program to temporarily assist urgent humanitarian immigration needs during natural disasters, prolonged violence, or other calamities. Temporary Protected Status is not the means to an end. There exists no clear mechanism for ending the status or otherwise allowing those with Temporary Protected Status to convert to Lawful Permanent Resident status should the need continue for 5, 10, or even 20 years. As stated in the previous section, the U.S. definition of a refugee/asylum-seeker should be amended to include a provision for the Secretary of Homeland Security to designate recipients of Temporary Protected Status as eligible for asylum in the United States after a certain period of time. The ability to convert Temporary Protected Status into its own permanent immigration category would

³⁷⁶ ‘The Cartagena Declaration.’ See also UNHCR, *OAU Convention Governing Refugee Problems in Africa*.

mitigate the need for separate legislation programs to supplement the legal immigration system during these types of crises.

- (3) Improve local access to humanitarian immigration programs for families in Central America.

UN statistics prove that the high levels of crime and the lack of law and order in Central America are contributing to the massive exodus of Central American migrants, particularly minors. Those with valid claims to refugee or asylum status in the United States should be able to access U.S. government officials or the UNHCR through an office in country. The office currently designated to assist with humanitarian immigration needs of Central Americans is located in Costa Rica.³⁷⁷ Humanitarian immigration assistance should not require those in need to traverse through unlawful human smuggling networks in order to arrive on foot at the southern border of the United States. Furthermore, there needs to be a redefined strategy to assist minors and their families in urgent need. Current immigration programs (such as the Special Immigrant Juveniles Program) unintentionally benefit those children who subject themselves to the danger of traveling unaccompanied to the United States, with parents who remain in Central America. The new Central American Minors relief program is now available to assist minors who remain in Honduras, while their parents travel unlawfully to the United States. There is no humanitarian program in place to support united families who seek consideration of refugee or asylum status from Honduras.

- (4) Discontinue immigration programs that promote Cuban exceptionalism.

The United States has officially begun the long process of normalizing relations with Cuba. The United States found gradual success in promoting democratic and open systems in communist governments such as China and Vietnam. Current immigration policies for Cuba continue to promote a system that allows Cuban nationals to circumvent the lawful immigration procedures that are required for every other country in the world. The Cuban Adjustment Act is contrary to the ultimate goal of establishing fair and safe immigration channels for Cuban nationals. Cuban nationals with humanitarian

³⁷⁷ “2015 UNHCR Subregional Operations Profile - Latin America,” UNHCR.

needs could continue to use the existing assistance available through the U.S. Refugee and U.S. Asylum Programs. The other exceptional program for Cuban nationals, the Cuban Medical Parole Program, could be expanded to attract medical doctors from other nations.

- (5) Enhance immigration enforcement for those in violation of U.S. immigration laws.

The greatest immigration threats to national security are those who circumvent or commit fraud against the existing immigration laws and processes. This population is virtually unknown to the U.S. government and consists of those who remain outside the law in an effort to do harm or unlawful acts. Immigration enforcement priorities have decreased the number of aliens eligible for deportation over the last eight years. The United States must send a clear message and follow that message with actions that show the nation is serious about enforcing its existing immigration laws.

- (6) Establish greater control over the U.S. Asylum Program.

The U.S. Asylum Program is used as a last resort for many who seek refuge in the United States and are unable to qualify under other programs. There are no numerical limitations in the U.S. Asylum Program and anyone can apply for consideration, even those who entered the country unlawfully or without proper identification documents. The U.S. Asylum Program has a large backlog that results in lengthy processing delays to include a review of asylum status by the immigration courts. Unlike refugee applicants, those who apply for consideration under the U.S. Asylum Program are eligible to appeal a negative determination or otherwise request that the United States not deport the individual even if the asylum application is denied. Greater expediency and control over this process is necessary for the security of the immigration system. The U.S. Asylum Program should try to match its objectives to the recommendations set forth through the U.S. Refugee Program and the Department of State. This could be done through numerical limitations or determinations made outside the country.

C. IDEAS FOR FUTURE RESEARCH

This study on humanitarian immigration programs uncovered potential areas for future academic research. With millions of naturalized citizens, the United States has direct links to every nation in the world. This is potentially a tremendous source of strength for the nation. First-generation immigrants could be better utilized by government agencies, particularly those that regularly deal with immigration and consular processes. Immigrants, and even those who have spent significant time abroad, are better able to provide nuanced insight into the languages, ethnicities, security concerns, and cultural norms in their countries of origin. This specialized knowledge could be developed into country-specific experts used to review applications and engage in relevant and country-specific interview questions. The process of engaging country background research experts is utilized in the U.S. Citizenship and Immigration Service's Refugee Corps, but such experts are not regularly utilized in the process of other humanitarian immigration programs or immigration enforcement operations conducted inside the United States.

As mentioned in Chapter V, scholars Lorenzo Vidino and Seamus Hughes from the George Washington University counted 71 individuals arrested in the United States in 2014–2015 for their support of ISIS.³⁷⁸ Of the total number arrested, 27 percent were committed to planning attacks on the United States. The rest claim to have prepared to fight only for an Islamic State in Syria and Iraq. The United States should seriously consider turning these arrested “enemies” into sources of study. Similar to the tactics used by law enforcement to topple vast organized crime and gang networks, low-level ISIS sympathizers could provide tremendous insight into the mindset, tactics, and recruitment methods used by this global terrorist organization. Additional study could focus on the trials and testimony presented by these cases to determine if all ISIS sympathizers are a true threat to the security of the United States.

Now more than ever, border security extends beyond our nation’s physical borders. We cannot solve the problem of unlawful immigration by simply building a

³⁷⁸ Vidino and Hughes, *ISIS in America*.

wall. The borders of the country are found at seaports and airports (even some outside the United States), as well as the land-based geographical divides and ports of entry. The nation must constantly examine how to better improve immigration enforcement strategies from within the country, engaging the idea that a nation's borders can no longer be drawn as lines on the ground.

Finally, the United States is a nation that supports millions of naturalized citizens with little distinction between naturalized citizens and those born in the country. Our naturalization process is unique. Further study could show whether the naturalization process helps or hinders the assimilation of immigrants, particularly new refugees or those who hail from non-democratic regimes. There may be elements of the current process that could be improved or changed.

D. FINAL THOUGHTS

The United States is a nation of immigrants. The values represented by humanitarian immigration are fundamental to the country's national identity. The actions of U.S. government leaders, particularly on topics involving immigration, send an amplified message to the world. The United States cannot afford to abandon its values during a crisis. The plight of refugees is a global problem that requires diplomatic collaboration. The case studies presented in this research demonstrate the complicated migratory experience of all refugees. Those with the greatest need demand consideration by all nations able to assist.

International terrorist organizations prey upon citizens of every nation with increasing connectivity. There is a real potential threat to the country from those who seek to deceive the government, or circumvent or abuse its legal processes. The unlawful leveraging of U.S. immigration benefit procedures is not limited to the U.S. Refugee Program. Known cases of fraud must be expeditiously handled through enhanced immigration enforcement resources and executive priorities.

Security is a main focus of all federal government agencies. In a democratic system, security is counterbalanced by individual rights and freedoms. The United States values its democracy above all else and will never achieve a homeland that is completely

void of crime or threats. The risk that accompanies liberty is a risk that all Americans should be willing to accept. In the meantime, thousands of American government workers dedicate their lives and their careers to ensuring the everyday safety of the public by enforcing the available laws and legal procedures. It is because of their service that the ideals set forth in the U.S. Constitution and the system of American government continue to shine as a last hope for those who flee oppression and violence.

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